# *Reaching for Solutions*

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Four Workshop Discussion Papers

1) Legal Issues
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# Towards a National Strategy for Combatting Child Sexual Abuse: Legal Issues

by

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A report on the "Legal Issues Workshop", held in Vancouver, November 16-18, 1988, as part of the Consultations of Rix Rogers, Special Advisor on Child Sexual Abuse to the Minister of Health and Welfare. This consultation process was conducted in preparation for the National Workshop on Child Sexual Abuse to be held in Ottawa, May, 1989, and to assist the Special Advisor in the preparation of his report to the Minister.

The author wishes to acknowledge the dedicated, sensitive and sophisticated group who attended the Conference. Their insights and experiences made this report possible. The author is particularly grateful to Linda Light, Brent Parfitt and Myra Lefkowitz, who provided extensive comments on a draft of this paper.

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# TOWARDS A NATIONAL STRATEGY FOR COMBATTING CHILD SEXUAL ABUSE: LEGAL ISSUES

## I. INTRODUCTION

This is a report on the "Legal Issues Workshop" organized by the Special Advisor on Child Sexual Abuse and held in Vancouver, British Columbia, November 16-18, 1988. The Workshop was attended by an interdisciplinary group of experts on the legal system and child sexual abuse. Most of these experts were practising professionals: Crown Attorneys, police officers, social workers, therapists, support workers, and a judge. Some were government officials, and one, the author, a legal academic.

This report reflects the author's perception of the most important areas of concern raised at the Workshop and the strategies which were recommended for dealing with the major problems we face. On many issues there was a broad consensus, and this is reflected in this report. There were some contentious areas, and this too is reflected in the report. While a draft of this report was circulated for comments to all Workshop participants, it must be appreciated that the author alone bears responsibility for this document.

The aim of this report is to serve as a stimulus for the development of a national strategy for combatting child sexual abuse.

## II. CHILD SEXUAL ABUSE IN A SOCIETAL CONTEXT

Child sexual abuse is a very serious social problem. The magnitude of this problem has only recently been fully appreciated, and appropriate social responses are just starting to be developed. While significant strides have been made, a great deal remains to be done; the societal response to child abuse has in many respects been inadequate. Everyone who works with the legal system to combat child abuse has experienced frustration, but this is also an exciting time to be in the field because substantial changes in attitudes, procedures and approaches now seem possible.

Child abuse cases are among the most difficult for our legal system to deal with. There are often complex evidentiary, procedural and constitutional issues. An appropriate response requires co-ordination by many professionals. The cases are very stressful for all concerned: professionals, judges, victims, families and accused persons. Often the greatest challenges arise in intrafamilial cases, where the victim and the offender have social, emotional and economic links; they have a relationship which continues throughout the court process and will exist after it is over.

It was universally accepted by those at the Workshop that victims of child sexual abuse must have treatment and support, and that too often such treatment and support are not adequately provided. If legal intervention is required to remove children from parental care or provide treatment, this will be through the child protection system and the Family or Youth Court.

It was also recognized that child sexual abuse is one of the most serious criminal offences. While some abusers were themselves victims of abuse, and some are suffering from mental or emotional disturbances, this cannot be viewed as excusing their crime. Clearly there is an important role for treatment of offenders, but it must be treatment in the context of the dealing with someone who has committed a criminal offence. There may be situations in which it may not be possible to have a criminal justice response, but it must never be forgotten that each case of abuse represents a serious crime, a crime against the victim and against society.

Child sexual abuse is related to a number of other social problems: juvenile prostitution, physical abuse and child neglect, wife battering, and sexual assaults against female adolescents by age approximate peers ("date rape"). Inevitably responding to child sexual abuse will involve responding to some or all of these problems, but it is analytically helpful to isolate issues related to child sexual abuse.

## III CHILD SEXUAL ABUSE & THE CRIMINAL JUSTICE SYSTEM

Long term strategies for dealing with child sexual abuse involve the education, health and social service systems, and will require society to deal with such issues as pornography, and with fundamental values related to children, families, sexuality, and with the role of men and women in society. The criminal justice system can also have an important role in dealing with child sexual

abuse, albeit one which must be related to other systems and to broader societal responses to the problem.

The criminal law has an important symbolic role in our society. It has the potential to provide protection for society through deterrence and, in appropriate cases, by incarcerating offenders. The criminal justice system can also serve a significant psychological function for victims by providing vindication. The criminal justice system may also have an important role in providing access to treatment for sexual offenders. Many abusers deny their acts until convicted of an offence, and even then some continue to deny their acts. While there is a place for abusers to voluntarily seek treatment, it seems that all too often abusers discontinue voluntary therapy.

The successful treatment of abusers is necessary to prevent abuse to other children. There is an acute need for treatment resources, both in the community and in correctional facilities, but it must be recognized that with present levels of knoweldge, treatment will not always be successful.

It must be recognized that the criminal justice systerm cannot by itself "solve" the problem of child sexual abuse. Some abusers will not be deterred by criminal prosecution. Some abusers will not be rehabilitated in the corrections system, and will again abuse after they have completed their sentences. Some children are traumatized by the investigative and court process, and their lives and those of their families forever scarred by the process; while steps can be taken to reduce "system abuse" of child victims, it

will be very difficult to totally eliminate. Nevertheless, the clear consensus of the experts at the Workshop was that an aggressive use of the criminal justice system must be an important part of the strategy for dealing with child sexual abuse.

One of the difficult issues which can arise in intrafamilial cases relates to the attitude and effect of criminal prosecutions on child victims. In particular, what should be the response if a child requests that a prosecution be dropped, or recants (i.e. says that the allegation was false)? While this is not an uncommon situation, it invariably reflects a lack of support services. Children must be helped to deal with their feelings of guilt for the abuse. They must be helped to realize that they are not responsible for having been abused. With appropriate support, children who request that a prosecution should be dropped usually change their minds as they come to appreciate the cause of their feelings. Child victims should not be asked whether they want parents or relations prosecuted. This places an unfair responsibility upon them. One Crown Attorney at the Workshop reported that she sometimes encouraged child victims who wanted a prosecution dropped to come to court to communicate their feelings directly with the judge. It may also be possible for a child's views to be communicated with the court at the time of sentencing through a victim impact statement.

While child victims should not be discouraged from requesting leniency towards an abusing parent, the courts[1] have generally held that they will not impose a more lenient sentence merely because of such a request. The courts have recognized that if they acted on such requests, this would result in more pressure being placed on children to "forgive" their abusers.

It was agreed by those at the Workshop that if a child victim does refuse to testify against an offender at trial, the child should not be a prosecuted for contempt of court; this would again victimize the child. In theory, a parent or other person improperly pressuring a child to refuse to testify might be charged with obstruction of justice, though it may be virtually impossible to prove.

Similarly in intrafamilial cases, non-offending parents should not be asked whether they "want" a prosecution or jail term; this places unfair pressure and inapproprate responsibility on non-offending parents. Non-offending parents require support throughout the court process.

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[1] See *R. v. R.P.T.; R. v. T.S.* (1983), 10 W.C.B. 60 (Alta. C.A.) where the Alberta Court of Appeal sentenced a man two years less a day in jail plus 2 years on probation, for engaging in incest with his daughter over a number of years. The man had undertaken therapy after his arrest, and had been reunited with this family. The daughter had "forgiven him". The Court wrote: "the offender cannot be permitted to hold the feelings of his child hostage for a lighter sentence....if we lighten the sentence because a child victim 'forgives' her father, we are threatening the child that if she will not forgive her father we will condemn him to prison. This is not right."

The prosecutional policy should be to charge and prosecute abusers in every case where the Crown Attorney is satisfied that there is sufficient evidence to merit prosecution and that the child will not be unduly traumatized by the process.[2] Because of the difficulties in proving abuse, especially where there are very young victims, it must be appreciated that there will be cases where investigators are satisfied that abuse has occurred which will not be prosecuted. There may also be cases where, even with appropriate support services and such protective devices as closed circuit television, there is a strong apprehension that the child will be unduly traumatized by the court process; in such situations the Crown Attorney, acting in consultation with other professionals and non-offending parents, may decide that the case should not proceed.[3]

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[2] An important research topic is the effect of court proceedings on child victims, including an assessment of the impact of different types of court proceedings, support services and legislation. For a recent American study, see P.K. Runyan et al, "Impact of legal intervention on sexually abused children", Journal of Pediatrics, vol. 113, no. 4, 647 (Oct. 1988).

[3] At present, there is a lack of clarity about the role and rights of non-offending parents in a sexual abuse case, whether it involves intra or extra-familial abuse. While theoretically a parent who interfers with a prosecution may be charged with obstructing justice, in practice it may be difficult or impossible to proceed with a case without the assent of a parent who continues to reside with a child. There may be situations, particularly those involving extra-familial abuse of young children, where the opposition of parents to a prosecution is based on a genuine concern for the child's welfare. Certainly non-offending parents require support during the court process, if only as part of the process of supporting the child.

Child protection proceedings or other civil actions may be appropriate or necessary in cases where criminal prosecution are not commenced. It is generally easier to prove abuse in these proceedings; civil proceedings may also be conducted in a less traumatic fashion from the perspective of the child.

## IV "VOLUNTARY" TREATMENT

### (a) Experimental Diversion Programs:

While there was very strong support at the Workshop for prosecuting abusers, there was also a recognition that it may be useful to have some carefully monitored experimental projects involving "diversion" from the criminal justice system. The establishment of such experimental programs would not necessarily require federal legislation.

A key research question to resolve in such experimental programs is the effect of diversion on the child, the abuser and the family.

There was widespread support at the Workshop for "post-conviction diversion" into treatment, as part of sentencing, probation or parole. A more controversial suggestion was that there might be some form of "pre-sentencing" experimental program which would involve a decision not to charge, or to stay a prosecution, or to adjourn proceedings or delay sentencing, while "voluntary" therapy was undertaken. Such a program could only operate with the co-operation of the provincial Attorney-General, the police, child protection authorities and therapists. There

would have to be monitoring of therapy to ensure that if it were discontinued, charges could be brought before the courts. In order for such experimental programs to function, there will presumably have to be an undertaking by the Crown not to use statements made in the course of diversion against the abuser in a later prosecution.[4] The proposal for pre-sentencing diversion was controversial with many at the Workshop because of concerns about lack of control over the offender and about the inappropriateness of not pursuing a criminal response for a most serious offence.

In deciding whether to allow someone to participate in a "voluntary" program, consideration must be given to such factors as the attitude of the abuser, the nature and duration of the abuse, and the relationship of the abuser to the victim. It would never seem appropriate to allow "pre-sentence diversion" if the victim wanted a criminal prosecution to proceed to resolution in the courts.

It would seem appropriate to have federal pilot program funding for some experimental diversion projects.

(b) Abuser Seeking Out Treatment

There are situations in which an abuser voluntarily seeks out a therapist, without being identified to police or protection authorities as an alleged abuser.

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[4] Canadian courts have held that there is no "privilege" between an abuser (or alleged abuser) and a psychiatrist or other therapist; see *R. v. R.S.* (1985), 19 C.C.C. (3d) 115 (Ont. C.A.).

In most, but not all, Canadian jurisdictions a therapist in this situation is obliged to report individual who identify themselves as abusers. Some mental health professionals are concerned that once officially "identified", an abuser will be prosecuted and imprisoned. Abusers have a great fear of prison, greater than the "ordinary criminal", since most have heard stories of child molesters being singled out for brutal treatment by other inmates.

It would seem that some therapists are not obeying the reporting laws in their jurisdictions. In part, this may reflect a lack of faith in other systems, as well as concerns of therapists about the treatment of abusers in the criminal justice system. It was suggested by some participants at the Workshop that therapists treating abusers should not be obliged to report, as doing so is counter-productive; at present abusers may be discouraged from voluntarily seeking needed help by fear of prosecution. The proponents of this view do not suggest that abusers voluntarily seeking therapy should be granted "immunity", but only that a therapist treating an abuser should not be obliged to report. This issue was controversial, and some Workshop participants favoured no change in provincial reporting laws.

It should be noted that some therapists deal with this type of situation by carefully advising abusers to not reveal any specific incidents or the identifies of any children, thereby technically avoiding a situation where the therapist may be under an obligation to report. It is apparent that there must be

efforts to improve communications and trust between therapists who treat offenders and those who work in the child protection and criminal justice systems.

In a few Canadian jurisdictions,[5] there is no legal obligation on professionals treating an abuser to report. It may be that this interjurisdictional variation may be exploited to facilitate experimental programs involving "voluntary" treatment.

## V INVESTIGATION AND COURT PREPARATION

While there have been improvements in many places in Canada in recent years in the investigation of child abuse cases and the provision of court preparation services, a great deal remains to be done. In each locality there is a need for CO-ORDINATED approach, by TRAINED staff.

Issues related to education and training are more fully discussed below, but it is apparent that many police, Crown Attorneys and social workers involved in child sexual abuse lack the knowledge, skills, training and supervision to deal effectively with these difficult cases. As a result, victims often do not receive the support and care they need, and abusers are often not successfully prosecuted.

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[5] In the Yukon there is no legal duty on any person to report abuse. In Ontario, therapists generally believe they have a legal obligation to report, though s.68(4) of the *Child and Family Services Act* only states that it is an offence for a professional who "performs... duties WITH RESPECT TO A CHILD" to fail to report reasonable suspicions of abuse.

Competent investigation is crucial to the successful prosecution of a child abuse case. If a case is well investigated, carefully documented, and adequately disclosed to counsel for the accused, there will often be a guilty plea; a guilty plea spares the child the trauma of a trial, as well as saving in expense.

Careful, professional investigation will usually uncover the relatively rare cases of false allegations. There have been cases where individuals have been falsely accused of child abuse. Few have resulted in criminal trials; most false allegations are uncovered during initial investigation or at the preliminary inquiry. Most cases of false allegations which have gone beyond an initial investigation can be attributed to poor investigative work by inadequately trained, inexperienced workers.

While the problem of false allegations[6] is clearly exaggerated in the media and public mind, those who are falsely accused of abuse pay a high emotional price, and often suffer financially as well. Good investigative work by trained staff can go a long way to dealing with the problem of false allegations.

There is a definite need for a co-ordinated approach to child sexual abuse cases, involving social workers, police, Crown Attorneys, child victim witness support workers, therapists and medical personnel. In a number of Canadian localities protocols

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[6] A discussion of false allegations is beyond the scope of this paper, but it should be emphasized that there is a major difference between an allegation which is false (i.e. the product of deliberate lying or innocent misinterpretation) and one which is not proven in a court; proof in a criminal proceeding is more difficult than proof in a civil proceeding.

have been developed to facilitate co-ordination. These protocols can serve as a model for other communities. It might be useful to have a national mechanism for circulating and exchanging protocols, and evaluating the strengths and weaknesses of different types of protocols.[7] However, it must be appreciated that there cannot be a "national protocol", as resources, institutions, personnel, and provincial legislation differ from one locality to another.

Co-ordination must go beyond simply establishing formal protocols for interagency co-ordination. The most important and difficult challenge is to establish a system of accountability to ensure that the co-ordinated approach is actually implemented. There should also be a process for periodic monitoring and review of protocols, to ensure that they remain responsive.

The participants of the Workshop recognized the need for front line workers dealing with child abuse to "specialize" within their professions in this type of work, at the same time as becoming "generalists", in the sense of developing linkages with other professionals.

In other words, in order to undertake the necessary training and education, and to develop the necessary experience to deal effectively with child sexual abuse, professionals like Crown Attorneys, social workers and police need to specialize. Their caseloads need not be exclusively in the child sexual abuse field;

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[7] It should be noted that under auspices of Health and Welfare Canada, a Federal Working Group has been established to develop National Guidelines on Child Sexual Abuse for Community Workers.

indeed such work is often very draining and exclusive handling of this type of case may increase professional "burnout". However, professionals should have enough education, experience and involvement in child sexual abuse to be able to deal sensitively and effectively with these most difficult cases. At the same time as becoming "specialists" within their professions, those who deal with child sexual abuse must become "generalists", in the sense of developing interdisciplinary knowledge and contacts. For example, lawyers must understand how doctors and social workers assess and treat child abuse cases, while doctors and social workers must understand how the legal system operates.

One issue which was identified as a problem is the possibility of delaying a child's therapy until after completion of criminal proceedings. In some localities Crown Attorneys and police apparently do not want a child victim to undergo therapy until after the criminal proceedings are concluded, because there is a concern that a therapist's discussion of the incidents may be viewed as "contaminating" the child's evidence. Delaying therapy until after the completion of criminal proceedings is not acceptable. A delay until the completion of court proceedings may last for months or even years. Children need help as soon as abuse is disclosed. Crown Attorneys, child protection workers and mental health professionals need to resolve this problem, without jeopardizing either the criminal proceedings or the victim's well being. It may be appropriate to complete an <u>investigation</u> prior to the beginning of therapy. Indeed, until the investigation is

completed, a therapist may be handicapped by not knowing the nature of the case. However, an investigation should normally be completed in a matter of days, or weeks at most, and therapy should then begin.

Appropriate training of therapists can obviate problems of possible "contamination". If Crown Attorneys continue to have concerns, it may be necessary to videotape therapy sessions. Such videotapes may be directly admissible in criminal proceedings under s.643.1 of the Criminal Code; they would certainly be admissible to rebut a suggestion of improper "coaching" by a therapist.

## VI MONITORING BILL C-15 & REFORMING THE CRIMINAL TRIAL PROCESS

Bill C-15 marked a significant improvement in the substantive and procedural law governing child sexual abuse prosecutions. While there remain very important issues, Parliament is to be commended for at least beginning the process of law reform.

### (a) Monitoring and Parliamentary Review

The provisions of Bill C-15 are to be reviewed by a Parliamentary Committee in 1992. Although the exact scope of the review remains unclear, it seems likely that the entire issue of the adequacy of the federal legislation which governs child abuse will be studied. Organizations of criminal defence counsel have indicated an intention to lobby Parliament to amend the law to eliminate many of the recent reforms. Advocates for children may

have to lobby vigorously merely to maintain the status quo, let alone achieve further, badly needed reforms.

Although it is encouraging that the federal government is undertaking to "monitor" the implementation of Bill C-15 and the prosecution of child abuse cases in anticipation of the 1992 review, the adequacy of this "monitoring" was seriously questioned at the Workshop. It was felt that while the provinces have primary responsibility for the implementation of the legislation, the federal government has an important leadership role in the implementation of Bill C-15.

Specifically it was felt that the federal government should be funding and assessing model programs, collecting and disseminating information about successes and problems with implementation, and facilitating training.

The major evidentiary and procedural reforms of Bill C-15 were:

- eliminating barriers to testimony by children, in particular by eliminating the corroboration requirement, and enacting the "ability to communicate" test for competence of child witnesses.
- permitting use of videotapes of a child's statements;
- allowing use of a screen or closed circuit television for a child's testimony; and

The federal government should be providing leadership in training, monitoring and disseminating information in regard to use of videotapes, closed circuit television and screens, and in

the acceptance of child witnesses and their preparation and support in court. It was suggested by some at the Workshop that the monitoring/training/information dissemination function might be better carried out on a contract basis by a non-government organization than by the civil service.

(b) Constitutional Challenges to Bill C-15

It is inevitable that many of the provisions of Bill C-15 will be challenged in the courts as violating the *Canadian Charter of Rights and Freedoms*. This is not a reflection of the legislation, but rather typical of our legal system. The federal government should monitor these challenges and actively defend the legislation against constitutional attack; the government should exercise its right of intervention in constitutional cases, ensuring that trial judges receive appropriate evidence about the need for and validity of this type of legislation.

Further, if provisions of the new law are ruled unconstitutional, they should be redrafted to meet constitutional requirements and not simply abandoned.[8]

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[8] For example, s.175(1)(e) of the Criminal Code, which was amended as part of Bill C-15, makes it an offence for a person convicted of any sexual offence to be "found loitering in or near a school ground, play-ground, public park or bathing area". This section applies to adult and young offenders. It was ruled unconstitutional by a British Columbia Provincial Court judge in *R. v. Graff*, Lawyers Weekly, Oct. 7, 1988, 6, Fulltext 819-014. There is a fundamentally sound and constitutionally acceptable, premise behind s.175(1)(e). Those with a history of abuse may have their freedom restricted to reduce the potential for future abuse. Child serving organizations warned Parliament during the Bill C-15 hearings in 1986-87 that s.175(1)(e) was drawn too broadly. If the court ruling regarding s.175(1)(e) is upheld, the principle of

(c) Possible Reforms in 1992

It is apparent that further reforms will be required to make the criminal trial process more responsive to children, without sacrificing the constitutional rights of the accused. Some of the areas where further legislative action is needed include:

Use of experts: An abused child is often assessed by a psychologist, psychiatrist or other mental health professional, who is prepared to offer an opinion about the credibility of a child's allegations or, the significance of a child's behaviour, or to explain delays in reporting or the phenomenon of recanting. Such a witness is normally permitted to testify in a civil case. Criminal courts will allow doctors to testify about physical evidence of abuse.

The defence is almost always permitted to call expert witnesses to challenge a child's credibility in a criminal case. Some judges have allowed mental health experts who have assessed the child to testify for the Crown, but many judges will not allow the Crown to call this type of evidence.[9] Canadian law should allow the

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restricting the freedom of abusers to enhance the protection of children should not be abandoned, though it will have to be refined. It may, for example, be necessary to have longer probation periods, directed at a specific offenders with specific conditions, rather than a vague all encompassing provision like s.175(1)(e).

[9] In *R. v. Kostuck* (1986), 29 C.C.C. (3d) 198 (Man. C.A.), the Manitoba Court of Appeal acquitted the accused where the trial judge admitted testimony from a psychologist: "a witness, expert or otherwise, may not testify that...any other witness, including the complainant...is likely telling the truth". See also *R. v.*

Crown or defence to call this type of evidence, provided the judge is satisfied as to witness's "expertise". In a number of American states such evidence is admissible.[10]

Child's Out-of-Court Statements: A child's initial out-of-court disclosure of abuse is often graphic and compelling. Such a statement is never recorded on videotape, since by its very nature it is "unexpected".

Some courts have shown considerable flexibility in admitting the child's out-of-court statements, particularly in situations where the statement was made soon after the abuse occurred.[11]

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*Taylor* (1986), 57 O.R. (2d) 737 (C.A.), on scope of accused's right to call witnesses challenging credibility of victim of sexual abuse, and the Crown's limited right of reply. For cases taking a more flexible approach to the Crown's right to call expert witnesses, see *R. v. Belliveau* (1986), 30 C.C.C. (3d) 193 (B.C.C.A.), and *R. v. G.B.* (1988), 65 Sask. R. 134 (Sask. C.A.), concurring judgment of Wakeling J.A.

[10] For an article explaining the law in the United States, and discussing situations where such evidence may be useful, see B. Gardner, "Prosecutors Should Think Twice Before Using Experts in Child Sexual Abuses Cases" (1988), 8 *Criminal Justice*, vol. 3, no. 3, 12 (American Bar Association, Section of Criminal Justice).

[11] See *R. v. Khan* (1988), 27 O.A.C. 142 (Ont. C.A.), "spontaneous declaration" exception to hearsay rule permitted mother to relate statement made by 3 1/2 year old child 15 minutes after alleged assault. In *R. v. Malette*, as yet unreported, Nov. 9, 1988, Ont. Dist. Ct., per Desmarais D.C.J., at Ottawa, a statement made by a 3 1/2 year old child to her mother more than six hours afer an alleged assault was also admitted as a "spontaneous declaration". In *R. v. Owens* (1986), 33 C.C.C. (3d) 275 (Ont. C.A.) statements made by young boys to their parents several hours after abuse about the incidents were admitted for the purpose of buttressing their credibility.

However, there is concern that the rules of evidence precluding admission of "hearsay evidence" and "previous consistent statements" will make courts reluctant to receive this type of evidence.

Canada's Parliament should follow the lead of many American states and enact legislation rendering admissible a child's out of court statements, at least in situations where the child is a witness.

Videotapes, Closed Circuit T.V. & Screens: It was significant that the *Criminal Code* was amended in Bill C-15 to facilitate testimony by complainants (i.e. victims) in child sexual abuse cases through the use of screens, closed circuit television and videotapes. The *Criminal Code* should be amended so that other child witnesses in sexual abuse cases can also be assisted in this way.

The judicial interpretation of these innovative provisions will have to be monitored, and further redrafting may be needed. For example, some judges have taken a very restrictive interpretation of s.442(2.1), requiring the Crown to prove that the child has a specific fear of the accused before testifying via closed circuit television. With young children it should be sufficient for the Crown to establish that use of a screen or closed circuit television is "necessary to

obtain a full and cordial account", whether the concern is a fear of the accused or of the courtroom itself.

Bail Conditions: When a person is charged with sexual abuse, our bail law normally requires that the accused be released pending trial. This accords with the presumption of innocence.

The law should, however, be clarified to make clear that persons charged with these offences may be ordered out of their homes pending trial. Some judges are apparently unwilling to deprive alleged abusers of their "property rights", requiring the removal of victims of intrafamilial abuse from their homes pending a resolution of their cases.

It should also be made clear that orders can be made prohibiting an accused person from associating with particular children pending trial. Some criminal court judges are apparently unwilling to order such bail conditions, since it is felt that the civil courts should deal with this issue as part of a child protection or access case; however, this may require an unnecesary multiplicity of proceedings.

Child Support Persons in the Court Room: An important development in Canada has been the establishment of child victim witness support programs. In some localities workers in these programs are involved as soon as the

police investigate a case, while in others they only become involved as a case progresses towards court. Victim support workers generally tell children about the court process, prepare them for court, accompany them to court, and sometimes provide counselling afterwards. The workers are generally trained to ensure that they are not "coaching" the children about their testimony.

There are situations in which it is desirable to have a social worker or other friendly, but "neutral", adult visible to the child, or even sitting beside a young child who is testifying. While some judges have permitted this, others have not. There have been cases where the judge has ordered supportive persons to leave the court room, along with other members of the "public".

Legislation may be needed to recognize that a judge may allow a young child (under 10) to be accompanied to the witness stand by an adult, and to allow relatives or other supportive adults to remain in the court room, even if the court room is closed to the public.

Consideration should also be given to the enactment of legislation similar to that in a number of American states which allows a lawyer to represent a child victim in a criminal prosecution.[12] In the U.S.A. this lawyer primarily serves a liaison and support function, but may

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[12] See D. Whitcomb, *Guardians Ad Litem in Criminal Courts* (1988, National Institute of Justice, Washington D.C.).

also bring a motion in court, for example to allow testimony behind a screen, or to request a brief recess when a child is obviously weary. In Canada, such functions should be performed by Crown prosecutors, but too often this is not the case.

In regard to a number of issues raised here, it may be argued that legislative intervention is not required since some Canadian judges are already demonstrating flexibility and sensitivity. However, there is a strong concern that unless legislation is enacted, the pace of change will be very slow and uneven. Further, gains achieved by a process of sensitizing trial judges may be reversed if appellate courts are concerned about changes made to the "traditional" rules without legislative authority.

## VI IMPROVING THE CRIMINAL TRIAL PROCESS: PROVINCIAL ISSUES IN THE ADMINISTRATION OF JUSTICE

Provincial and territorial governments have constitutional responsibility for the administration of justice, which includes the implementation of Bill C-15. There is very significant variation in how different provinces have decided to implement Bill C-15. All provinces and territories have taken some steps to implement the new law. Quebec, New Brunswick, Manitoba and British Columbia appear to be taking a leadership role in terms of videotaping, use of screens and closed circuit television, co-ordinating investigations, and providing child victim witness

support services. In some other provinces, most notably Ontario, the government has been much slower to implement the new law. Although Ontario has taken steps to provide screens throughout the province and to increase the use of child victim witness support programs, videotaping of children's statements occurs rarely in Ontario and arrangements have not yet been made for use of closed circuit television in the province.

Beyond ensuring that services are adequately provided throughout the jurisdiction, provincial and territorial governments can take some specific steps to improve the administration of justice.

Experts: Medical and mental health experts may play a crucial role in the investigation of child sexual abuse cases. They are not infrequently called as witnesses in child sexual abuse cases, both civil and criminal.

Much greater sensitivity has to be shown to the needs of busy professionals. This includes a degree of flexibility in terms of scheduling court time for them to testify. It also means that professionals in private practice who come to testify in court must be adequately compensated. Quebec adequately compensates professionals who are required to spend time away from their practices in court, and at the courthouse waiting to testify. In other jurisdictions adequate compensaton may not be provided; in these jurisdictions professionals understandably are particularly

reluctant to become involved in cases which even might go to court, as they may be financially penalized.

It is difficult enough to attract professionals to deal with child abuse cases, especially those which may result in judicial proceedings. The prospect of participation in adversarial proceedings, where their competence and even good faith will be challenged, has a dampening effect on willingness to do this type of work. At very least, expert witnesses must be adequately compensated. Doctors and other mental health professionals who come to court to testify on behalf of abused children are doing as much for society as those who stay in their offices; they deserve equal compensation from society.

Expediting Abuse Cases: In some jurisdictions child sexual abuse cases do not come to trial for one to two years after the alleged offence. Delay in this type of case is particularly stressful for victims and their families. Therapy and placement of the child may be kept in suspension with the criminal case is resolved. A person falsely accused of child sexual abuse also suffers from delay.

While delay is a problem in any criminal case, this is particularly so in child sexual abuse cases. A young child's memory is generally not as well developed as an adult's, and the ability to recall details, which may be crucial to support credibility, will diminish over time.

Provincial Attorneys-General must develop policies to give priority in court scheduling to child sexual abuse cases.

Implementation of such a policy will require consultation with the Bar Associations and Judicial Councils.

Quebec, Manitoba and several American jurisdictions have policies to expedite prosecution of child sexual abuse case; these policies appear to be having positive effects.

Courtrooms and Courthouses: The design, furniture and layout of courtrooms should be modified to accommodate children and other vulnerable witnesses.

Courthouses may also have to be redesigned so that children, and other victims of crime, can enter the building and wait for their case, without having to be confronted in the hallway by the accused and members of his family. In a recent British Columbia case a six year old victim of child sexual abuse was confronted by the presence of the accused in the hallway; she was so terrified and upset that the Crown decided not to call her as a witness, even though the Crown Attorney had planned to use closed circuit television.

Waiting areas should be designed and equipped with children in mind.

Quebec is redesigning at least one courtroom in Montreal, and a number of American jurisdictions have special courts for child sexual abuse cases.

Obviously, reconstruction of courtrooms and courthouses will have to occur gradually. Some alterations can be made relatively inexpensively and quickly; others may have to be

undertaken more gradually. It is disturbing that some recently constructed courthouses have not been designed with more sensitivity to the needs of child witnesses. Certainly, any new courthouses should be more thoughtfully designed.

A minimal federal role would be to commission a study of courtroom and courthouse design, including a study of international developments. The study should be made available to all provincial and territorial governments. Appropriate cost sharing mechanisms should also be considered for reconstruction projects.

## VII IMPROVING THE CRIMINAL TRIAL PROCESS: ROLE OF JUDGES AND DEFENCE COUNSEL

Judges play a key role in the criminal trial process. They must ensure that trials are fairly conducted. This, of course, requires protecting the rights of the accused. It also requires respecting the needs of witnesses in order to ensure that they can fairly testify.

Unfortunately, some judges have demonstrated considerable insensitivity to child witnesses. Some judges seem insensitive to such issues as the attention span of child witnesses, and their ability to meaningfully respond to questions asked in a complex or confusing fashion.[13]

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[13] In *R. v. G.B.* (1988), 65 Sask. R. 134 (Sask. C.A.) Justice Wakeling of the Saskatchewan Court of Appeal commented on the conduct of trials involving three victims of sexual abuse, aged 5 to 8 (at 150):

> I am unable to set forth guidelines of general application, and indeed I can do no more than make the general comment that I am of the

For example, with child witnesses, there should be relatively frequent breaks in questioning. These need not be long.

The best way to change judicial attitudes and practices is through education. The National Judicial Education Centre in Ottawa as well as provincial and national judges' associations should be approached to ensure that judicial education programs include a study of the dynamics of child abuse, and of the needs and capabilities of child witnesses.

The federal government should fund the development and mounting of a training program for judges dealing with child sexual abuse cases. The actual development and presentation of the program might be best contracted out to a non-government organization. The education program for youth court judges about young offenders with learning disabilities could serve as a model;

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> opinion the trial judge erred in utilizing and applying strictly an adult standard for the assessment of credibility of the youths that appeared before him. Although the cross-examination was conducted quite reasonably in these trials (but sometimes by as many as three counsel), I find it unremarkable that the youthful witness would eventually find shelter in silence or simple agreement with counsel's suggestions. Nor do I find it difficult to understand that the trauma resulting from the incidents of assault would prevent a witness from having an accurate and detailed recall of the event, even if it were being recalled on the day it occurred. In the same way that adult standards would not be suitable to gauge the conduct of youths in physical, mental, social, or other aspects of human activity, it is equally unacceptable that such a standard be applied without modification when measuring the credibility of their testimony.

this was funded by the federal government and carried out by the Canadian Association for Children with Learning Disabilities.

While defence counsel obviously have a primary duty to their clients, they also have a duty to the court to ensure that trials are fairly conducted. At present, no Canadian law society has ethical rules dealing specifically with the cross-examination of children and other vulnerable witnesses. Until now the Canadian Bar Association has been reluctant to take up the proposal of the Canadian Council on Children and Youth that the American Bar Association Canons of Ethics for dealing with child witnesses should be modified for use in Canada.

An appropriate role for the federal government would be to fund a project to study the ethical issues for defence counsel in child sexual abuse cases and the ethics codes of other jurisdictions in regard to this type of case. A model for Canadian law societies should be developed and circulated to all provincial and territorial governing bodies and to the Canadian Bar Association for discussion and possible adoption. This project should be carried out under the supervision of a group including representatives of defence counsel, Crown Attorneys, and child advocates.

Education and training issues for defence counsel are discussed below, but it is clear that defence counsel would greatly benefit from more understanding of the dynamics of child sexual abuse and child development. This would assist them in dealing with sentencing issues and guilty pleas, as well as in examining

experts and uncovering "false allegations". The most effective cross-examination of children does not involve intimidation and harassment, but rather gentle and persistent questioning; some defence counsel require education in this regard. Intimidation of a child by defence counsel may not be effective for convincing a judge or jury, but it can be very traumatic for a child.

## VIII SENTENCING AND PAROLE

A detailed discussion of sentencing and parole in child sexual abuse cases was beyond the scope of the Workshop, but some important observations and recommendations were made.

There is clearly a need for treatment to be available for offenders, both in the correctional system and for those on probation and parole. Offenders who have not been treated are likely to reoffend upon release. Further, many offenders were themselves victims of child abuse, and while this cannot justify or excuse their actions, society should be compassionate in its treatment of those whom it failed to protect as children. It should be remembered that when those who are now adult offenders were children, society did not fully recognize or deal effectively with child abuse.

There is a need for more flexibility in sentencing options. In particular, the maximum of three years probation is inadequate for many sexual offenders. The period must be lengthened by Parliament. Further resources must be devoted to ensuring that offenders who are on probation are adequately treated

and monitored. Too often at present offenders are placed on probation with a condition that they receive treatment, and this does not occur.

Parole staff and board members need more education in the dynamics of child sexual abuse. Many of these people acknowledge the difficulty in dealing with abuse cases. Clearly there is an important federal role here in terms of education.

It may well be that Parliament will begin to study and implement the Report of the Canadian Sentencing Commission. It should be noted that that Report did not deal adequately with the special dynamics and nature of child sexual abuse cases, and the special sentencing issues related to these cases.

## IX EDUCATION AND TRAINING: FEDERAL AND PROVINCIAL ISSUES

One of the central themes of the Legal Issues Workshop was that there is a desperate need for more education (knowledge) and training (skill development) for all those involved in the handling of child sexual abuse cases, including social workers, police, Crown Attorneys, defence counsel, judges, probation and parole staff.[14]

It was recommended that provincial governments should require all front line staff, social workers, police and Crown Attorneys, to attend a minimum of a one week course before becoming

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[14] There is also a need for education in child sexual abuse for professionals such as teachers and doctors, as well as for children and the public, but this was beyond the expertise of the participants at the Workshop.

involved in any child sexual abuse cases, and that they should thereafter be required to regularly attend refresher programs. This is a rapidly evolving field and workers require continuing access to training and education programs. It is also a field where there has been a high rate of burnout and staff turnover, requiring constant efforts to train new staff.[15]

An important federal role could be to establish a National Resource Centre for Education and Training in Child Sexual Abuse. This would be a small Centre with just a few full time professional staff. It would be responsible for assembling and preparing written and audiovisual materials, and for organizing educational and training programs at the request of appropriate provincial and national professional and government bodies. There would be a focus on interdisciplinary learning for professionals deal with child sexual abuse cases. The Centre could make use of national and local specialists in mounting programs. When developing educational materials and mounting programs, the Centre could second individuals from front line agencies or the academic community. In order to be credible and effective, such a Centre should not be staffed by career civil servants, but rather by those with experience in the field. Such a Centre might well be operated

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[15] The issue of "burnout" among professionals who work in the child sexual abuse field is of major concern. Unless high staff turnover rates are reduced, the training problem will never be resolved; people will leave the field as fast as they can be trained. Adequate support, proper debriefing, reasonable workloads, adequate training, and sufficient financial compensation all play a role in reducing burnout.

by a non-government organization or it could be an independent agency.[16] It could also be given some of the responsibilities discussed earlier in this report, for example in regard to monitoring use of videotaping, closed circuit television and screens, and development of judicial education programs.

While it was felt that most of the educational and training effort should be devoted to the training of those actually involved in dealing with sexual abuse cases, all students in professional schools in law, medicine, nursing and social work, and at police and correctional colleges, should receive some instruction in domestic violence and child sexual abuse, and interested students be able to do advanced level and clinical work in these areas.

Continuing education programs in such professions as law, medicine, nursing and teaching should deal with child sexual abuse. A National Resource Centre for Education and Training in Child Sexual Abuse would have an obvious role in such undertakings.

## XI FUNDAMENTAL RESEARCH

The federal government is to be commended for recent funding initiatives for research into the problem of child sexual abuse. It is, however, apparent that there is not a co-ordinated

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[16] A model might be the American National Center for the Prosecution of Child Abuse, established in 1985. It has a mandate for education, preparing resources and research. [Contact Patricia Toth, Director, National Center for the Prosecution of Child Abuse, 1033 North Fairfax St. Suite 200, Alexandria, Virginia 22314.]

long term strategy for research in this field, and that as a result scarce research funding is not being used as effectively it could.

It is recommended that the federal government establish a multidisciplinary national committee to establish a research strategy, identity gaps in fundamental and applied knowledge, and areas of unnecessary duplication in research efforts in the area of child abuse and domestic violence. Perhaps the committee could ultimately operate like a small version of the federal major research councils and make actual funding decisions.

## XII SCREENING

It is apparent that some individuals with a history of child sexual abuse are moving from one position of responsibility for children to another. For a pedophile, there is no better position to be in that one which involves working with children.

Increasingly efforts are being made to screen individuals applying for positions of responsibility with children for a history of child sexual abuse. Manitoba and Nova Scotia use their child abuse registers for this purpose. In some localities criminal records checks are done using the federal Canadian Police Information Centre (C.P.I.C.) records.[17]

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[17] In Ontario and British Columbia consideration is being given to making increased use of criminal records or child abuse records for the purpose of better screening those who seek to work with children. See e.g. Bala et al., *Ontario Child Abuse Register Review*, Ontario Ministry of Community and Social Services, 1987-88.

Screening will always have a limited role in combatting child abuse. Only those with a confirmed history of abusing children can be screened out. At present, inadequacies with record keeping means that some confirmed abusers may not be identified through a search of records. Nevertheless, it is felt that screening can have important positive effects. Experience in the United States suggests that some abusers can be screened out, once an effective screening system is in place; further it seems that a significant number of abusers are deterred from seeking positions of responsibility for children if they know that effective screening mechanism are in place.

The federal government can assist in screening by amending protection of privacy legislation to ensure that criminal records can be released to child serving organizations which are screening individuals for positions of responsibility with children. At present, there is some uncertainty about the legality of a release of information, even with the consent of the individual being screened. Such a release should only be given with the consent of the individual, though a failure to consent should be a ground for refusing to employ an individual in a position of responsibility for children.

Provincial governments should be encouraged to establish screening mechanisms, and with appropriate safeguards for the protection of privacy, to allow screening through child abuse registers. The federal government could assist this by giving provincial registers access to criminal records. It may also be

necessary to amend federal legislation to enable the provinces to use social insurance numbers for identification purposes on child abuse registers; the purpose is not to allow linking to other data banks, but simply to ensure that individuals are accurately identified on child abuse registers.

## XIII REFORM OF PROVINCIAL LAWS GOVERNING CIVIL PROCEEDINGS

There are a number of civil proceedings which can arise out of a child sexual abuse case, including a child protection proceeding, a parental custody dispute, an employment action if an employee denies allegations of abuse, and a child abuse register name removal proceeding. All of these actions are governed by provincial legislation.

Some provinces, such as Nova Scotia,[18] have amended their legislation in response to the enactment of Bill C-15 to facilitate the giving of evidence in civil cases. However, in other jurisdictions it may be more difficult for a child's evidence to be received in a civil case than in a criminal case. All jurisdictions should amend their statutes to facilitate the proof of child abuse, without compromising the rights of litigants. Videotapes of a child's statements, expert evidence about abuse, and a child's out-of-court statements should be admissible in civil cases.

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[18] See *Children's Services Act*, as amended by Bill 81, 4th Session, 54th Assembly, 1988, s.76A.

Adult survivors of incest are increasingly wishing to sue their abusers. Such a suit can have enormous symbolic and psychological importance for victims, as well as providing financial awards for compensation and to facilitate access to therapeutic services. Unfortunately, in some provinces the expiration of statutory limitation periods has barred such suits. Provincial legislation should be amended[19] so that such suits need not be commenced at least until a victim is a mature adult (e.g. 30 years of age). Too often, the psychological scars or repression of memories mean that such suits cannot be commenced until victims reach a mature adulthood.

## XIV CHILD PROTECTION PROCEEDINGS

Provincial governments and legislation regulate the conduct of child protection proceedings. These proceedings are often crucial to the determination of the future welfare of victims of intrafamilial abuse.

Child protection and criminal proceedings are closely linked in cases of intrafamilial abuse. Co-ordination of investigation and provision of support services is essential, and in many localities there is an overlap of personnel involved in the two proceedings. Child protection staff should be working closely

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[19] One M.P.P. in Ontario is attempting to have a Private Members bill enacted for this purpose; see Bill 198, 1st Session, 34th Legislature, Ontario, 1988. The initiative should be coming from the government, not only individual members of the legislature.

with criminal justice personnel, and should be consulted about such issues as the initial decision to lay a charge, possible bail conditions and Crown submissions in regard to sentencing.

In some jurisdictions, child protection legislation only applies to children under 16 years of age. Consideration should be given to providing protection services for youths up to the age of 18 throughout the country. This would be consistent with the age of majority in most provinces, as well as with Bill C-15. It would also assist in dealing with the problems of runaways, abused adolescents and juvenile prostitutes. Naturally, legislation, programs and facilities for older adolescents must reflect their special needs, their growing maturity and their civil rights.

One of the difficult issues which can arise if there are simultaneous child protection and criminal proceedings is which should be resolved "first". Frequently criminal defence counsel, and sometimes Crown Attorneys, will argue that the civil case should be delayed. There is sometimes a concern that the prior giving of evidence in a civil case may "prejudice" the criminal prosecution, though s.13 of the *Charter of Rights* ensures that no evidence given by accused persons in a civil case can be used against them in subsequent criminal prosecutions.

From the child's perspective it is generally desirable to resolve the civil proceedings first. These cases can usually be resolved more expeditiously, since Family Courts tend to be less cumbersome and clogged than criminal courts. The child's future

should be determined as expeditiously as possible; this sometimes requires a relatively speedy civil hearing.

Further, it is usually easier to prove abuse in a child protection proceeding; the civil rules of evidence and burden of proof usually make it easier to prove abuse in this setting. Proving abuse in a civil case may give the child and professionals an important psychological boost before a criminal trial.

In theory the proceedings are quite separate, and an acquittal in the criminal case should not be relevant to a civil case, where there is a lower burden of proof. In fact, some Family Court judges seem to be influenced by a prior acquittal in Criminal Court. The civil finding is clearly inadmissible in a later criminal trial. This too suggests the civil case should be resolved first.

In New Brunswick, there is a policy of conducting a child protection proceeding first, if this is possible. This would be a good practice to follow everywhere in the country, though there needs to be flexibility in its application.

Provincial child protection legislation should specify that if there is a prior criminal trial, evidence from that trial is admissible without witnesses necessarily having to be heard again; Saskatchewan law now has such a provision.[20]

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[20] *The Child and Family Services Act*, Bill 94, 1988, s.30.

## XV CONCLUSIONS

A national strategy to combat child sexual abuse is slowly developing, though the pace of change often seems frustratingly slow. While the legal system cannot be expected to resolve the problem of child abuse on its own, it can have an important role to play. Front line workers in the child protection and criminal justice systems often feel frustrated and suspicious of government, in particular of the federal government, which often seems quite remote and unresponsive. There is an awareness by professionals that increasing the protection we can provide children and improving the responsiveness of our legal system to their needs will require political support.

Some of the impetus for reform should come from such national child advocacy groups as the Canadian Council on Children and Youth.

It was also strongly felt by those at the Workshop that there is a need for an independent national focus for dealing with child sexual abuse, in particular in the period leading up to the 1992 Parliamentary Review. In this regard, it is recommended that the position of the Special Advisor on Child Sexual Abuse should be continued through 1992. The present incumbent, Rix Rogers, is proving to be an astute and sensitive spokesperson for the issue of combatting child sexual abuse. He is serving as a catalyst for reform, and as a vital link between the highest levels of the federal and provincial governments and front line professionals.

Appendix to: "Towards a National Strategy for Combatting Child Sexual Abuse: Legal Issues"

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December 09, 1988

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# Child Sexual Abuse in Remote, Rural and Aboriginal Communities

A paper submitted to the Special Advisor to the
Minister of Health and Welfare Canada on Child Sexual Abuse
St. Albert, Alberta - Workshop Summary
January, 1989

Prepared by:

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## INTRODUCTION:

On January 4, 5, and 6th, 1989, Mr. Rix Rogers, Special Advisor to the Minister of Health and Welfare, convened a workshop to discuss child sexual abuse in remote, rural and aboriginal communities. The participants came from different geographical areas of Canada and various professional and cultural backgrounds. The multi-disciplinary backgrounds of the participants combined with experiences from their own communities enriched the proceedings of the workshop.

Although the workshop was intended to address the issues and needs of remote, rural and aboriginal communities, aboriginal communities became the main theme. Thus, this report reflects the workshop bias and deals primarily with child sexual abuse in aboriginal communities.

The following reflects the discussions pertaining to child sexual abuse in remote, rural and aboriginal communities. Topics include staff issues such as burn-out and training, legal issues, treatment, culturally appropriate public education, funding and primary prevention. The report concludes with twenty-seven recommendations put forward by the participants.

# "OWNERSHIP OF PREVENTION, IDENTIFICATION AND TREATMENT OF CHILD SEXUAL ABUSE IN ABORIGINAL, REMOTE AND RURAL COMMUNITIES"

The successful prevention, identification and treatment of sexual abuse in aboriginal comunities is the responsibility of the communities. Within these communities, issues such as high suicide rates, chemical abuse, the lack of socioeconomic development, family violence and educational concerns also require solutions. Government's responsibility is to support and enable aboriginal leadership to set priorties and to develop the required resources.

These social problems have to be understood within a historical perspective. The colonization of aboriginal peoples and the subsequent paternalistic practices and policies of governments have had disastrous impacts on aboriginal families and communities. In more recent times, as aboriginal communities have gradually been able to assume some control of their communities and to develop their own services, they are finding solutions to these problems. These solutions require the involvement of all segments of the community, i.e., elders, youth, organizations and workers.

The development of the communities is the responsibility of leaders who must also grapple with trying to keep up with federal changes while acquiring and maintaining expertise in a wide variety of areas. For many of these communities there has been a lack of educational and training opportunities to help prepare leaders and helpers for the sometimes monumental tasks they face.

Over-extended band leadership has left some social issues, such as sexual abuse, to be dealt with by other organizations. For example, in some communities, women's organizations have arranged training for themselves in the area of sexual abuse and encourage their members to raise their own levels of awareness.

As community awareness grows, the demand for treatment, training and other resources increases. Transfer payments to communities should include resources to ensure that the training needs are met. An additional concern is the recent cut to post-secondardy education for Indian people.

These cuts from one department appear at cross-purposes with other departments which are expecting communities to develop specialized professional expertise to deal with child sexual abuse and other social problems.

Government initiatives tend to be short-term and do not always reflect the priorities of communities. In most communities, there are very committed, caring staff and community members who want to address the issues of child sexual abuse and other forms of violence. This requires inter-departmental and inter-governmental consultation and coordination to help these communities develop services and programs congruent with their needs. This will necessitate consistent long-term funding and a commitment to self-government and community control.

While sexual abuse is a societal problem and certainly not confined to aboriginal, remote and rural communities, some special difficulties are exacerbated in these communities. For example, helpers and programs are generally more visible in smaller communities. Without an effective mult-disciplinary community-based approach to child sexual abuse, individual frontline staff and or agencies are extremely vulnerable and can be immobilized by the amount of fear and anxiety any type of intervention generates. In fact, individual staff in small communities can easily become the target of revenge, violence, political discrimination or other forms of attack.

In some rural and remote communities, frontline staff are expected to be accountable and to serve "two masters": the legal mandated authority, and the mandate and authority of elected officals. In these areas, coordination, input, agreement and the mutual responsibility of a multi-disciplinary community aproach is vital to the management of child sexual abuse cases.

Many areas of child welfare, child abuse, and in particular, child sexual abuse, have become politicized to the point where the stakes and risks are very high for all those involved. Public exposure has led to public accountability and to simplistic demands for solutions to very complex problems. This can result in service decisions being tied to issues of politics, power and control rather than what is in the best interests of the child victim and family/community.

Generally there is a lack of understanding that we are dealing with communities and systems which are dynamic, evolving human organisms, each with their own developmental processes. Ultimately, each community assumes responsibility for the care, protection and well-being of its members. Government's role is to help provide the resources the communities require to meet their needs.

## "STAFF SHORTAGES"

A factor that hinders the development and provision of services to some of the aboriginal, remote and rural communities is the shortage of qualified staff. Many skilled professional people prefer the advantages of living in large, southern urban centers. Some of the communities have dealt with this problem by recruiting outside professionals to train indigenous workers and provide interim treatment.

The development of self-help groups and paraprofessionals builds on community strengths and resources to provide some of the services required. However, like all helpers, there is a risk that these staff may find themselves isolated, blamed and responsible without having access to appropriate, knowledgeable and skilled support and expertise.

Affirmative action programs have been successful in attracting and graduating aboriginal professionals. One example is nursing programs and many reserves now have Indian nurses working on their own reserves. Unfortunately, spaces in affirmative action programs are limited and many aboriginal people are turned down for admittance. Also, as previously mentioned, the federal government has cut back on financial resources for post-secondary education to Indian people.

## "BURN-OUT AND STAFF TURNOVER"

The high numbers of disclosures and emphasis on treatment for victim,

offender and family have placed incredible demands on helpers. Too often, frontline staff are expected to provide services in an organizational climate where there is little or no concern for the workers and their needs. This tends to be truer of more bureaucratic systems which tend to be more rigid, inflexile and impersonal in their requirements. Staff are often told to provide services without adequate training, resources, supervision or supports.

As organizations and communities are experiencing these difficulties some are also discovering methods of lessening their impact. For example, some agencies regularly provide treatment and other resources for their staff to reduce burn-out and staff turnover. It should be noted that without adequate supports and resources child welfare workers in all geographical areas experience high rates of stress and burn-out.

## "TRAINING AND MULTI-DISCIPLINARY ISSUES"

The identification, investigation, case management and treatment of sexual abuse cases requires specialized training. This training needs to include all members of the multi-disciplinary team. Only trained people should be conducting interviews, and interviews have to be kept to as few as possible. Social workers need specific training in the the field of child sexual abuse. Most are generally unprepared by their professional training, and their responsibilities in child welfare are horrendous. Although social workers have requested additional training, government and organizations have been slow to respond. Workers are requesting "hands-on" experiential training within a holistic, community-based context.

There is also an need for knowledge, skill and expertise at the middle and senior management levels in regards to both child sexual abuse and the impact of these cases on the families and communities in which it occurs. The lack of expertise can result in confusing, self-defeating supervision and direction to frontline workers.

Communities are requesting that training take place within the community. Some training programs requiring students to live in urban centres, far from their home communities, have experienced a high

percentage of drop-outs. In addition, it is sometimes difficult for students to adapt their new knowledge to their home communities. The intergration of community norms and values is difficult to facilitate in these circumstances. To overcome these barriers, elders have been included in some of the urban training centres.

Consultants and trainers from outside of the community require orientation to the communities and the people with whom they will be working. Outside professionals need to enter communities with respect and the recognition that the learning will be reciprocal. Training needs have to be determined by the community and be community-driven and controlled.

Trainers need to be able to work with and build on the strengths that indigenous workers bring to their training. The workers are the experts on their communities. Trainers must be mindful that while they leave the community, the trainee does not. Skills and interventions that are taught must reflect this reality. Terms such as "confrontation" and "termination" may have very different meanings in small, sometimes isolated communities.

Other members of the multi-disciplinary team also require specialized training. For example, police need to be taught appropriate methods of investigation and the consequences of investigations. Techniques to increase the probability of confesssions from offenders can reduce trauma to the victim and facilitate treatment for victim, offender as well as the non-offending parent. In some areas the R.C.M.P. are providing specialized training to their staff.

Judges play an extremely important role. They need to be trained in the area of abuse. Training needs to include treatment modalities and alternatives to incarceration.

Probation offices also need training and skill development. In some areas, probation services are providing treatment to offenders. It is essential that this treatment be coordinated with members of the multi-disciplinary team.

Crown Prosecutors, who have much control of the case, play an important role in the management of sexual abuse cases. They also need to be

informed of the resources available within the community and the special needs of child victims.

In some areas, school personnel form part of the multi-disciplinary team There are occassional concerns regarding how much information should be shared with the school. Frustrations occur for the school when they have reported the abuse and are not informed of the results of the investigation. This can leave the school unsure of whether the child is being protected, and how best to support the child.

Medical personnel require specialized training to provide examinations and treatment to meet the special needs of sexually abused children. Training in identification and reporting procedures is essential. Doctors and nurses are a vital part of the multi-disciplinary team.

Spiritual leaders need to understand the dynamics of sexual abuse. For example, recommending to the child that she or he pray and forgive the offender may not be therapeutic for the child a the time. Spiritual leaders also have a responsibility to ensure the protection of the victim as well as other children who may be at risk from the offender.

Political leaders need to be initiated at an affective as well as cognitive level. They need to understand the individual as well as comunity implications of sexual abuse.

Professional schools, associations and colleges should ensure that training in sexual abuse in included in the curriculum. This should include training in case management and multi-disciplinary methods.

Training programs initiated by governments have tended to be short-term. These programs cannot hope to provide the level of skill development and expertise required to deal with complex issue of child sexual abuse. Knowledge is continuing to grow in this area and it is important that aboriginal, remote and rural communities keep abreast of the new developments. In addition, as discussed earlier, high staff turn-over and burn-out require ongoing training to meet the needs of new staff.

## "SURVIVORS AS WORKERS/FAMILY ISSUES IN ABORIGINAL, REMOTE AND RURAL COMMUNITIES"

Many frontline staff bring their own personal experiences of having been victimized or subjected to abusive family systems. These workers need help and support to work through their own issues to help ensure that these previous experiences don't interfer in the work with others who are victims or abusers.

Because many aboriginal people have been affected by abuse, some communities are recognizing the need for community healing to occur. Support and self-help groups are providing opportunities for people to share their experiences and assist in the healing process. Traditional ceremonies are often part of the help available.

Problems may arise when a worker is a relative of an offender. Multi-disciplinary teams are one way of dealing with such cases. The responsibility for investigation and case management can be assigned to a team member who is not related to the offender or victim. Community child abuse committees are another resource to help distance an individiual worker from a case that involves a relative.

Another more traditional aproach, is to utilize the clan system. With this method the offender's clan assumes the responsibility of confronting the offender. If appropriate, the clan will also provide support to the offender. Experience has shown that it is easier for workers and communities to confront and deal with the offender if treatment resources are available to help the offender.

## "DIFFERENT LEVELS OF AWARENESS/READINESS"

Many systems, agencies and disciplines are in various stages of awareness and readiness to deal with child sexual abuse. Some of the tribal agencies have assumed complete control and management of child welfare services on the reserves. Some agencies also provide more limited off-reserve services. The dominant society must acknowledge the resources of

Indian communities and the many innovative programs they have developed.

However, in many rural and northern communities where services exist, there is a tremendous amount of confusion, duplication, turf profection, jealousy, false economies, and a lack of trust between the various jurisdictions and disciplines including the federal, provincial, aboriginal and non-governmental organizations. There is a need to develop effective and efficient systems to deal with these issues.

In some communities there is a lack of understanding as to the seriousness and pervasiveness of abuse. This can result in confusion and ambivalent messages as to how to deal regarding disclosures and possible interventions. Supervisors and senior staff must have a more systemic and holistic view which deals with abuse within a family focus and community context.

## "CULTURALLY APPROPRIATE PUBLIC EDUCATION"

Community awareness and public education have succeeded in bringing child sexual abuse and other social concerns to the attention of the public.

Public awareness can be carried out in various ways. It can be fashioned to focus on community action so that it creates pressure on leadership to do something about the problems quickly.

Community workshops provide information about child sexual abuse and can facilitate the formation of community groups to begin to deal with the issue.

In the Northwest Territories, for example, school curriculula are in place to educate children about sexual abuse. A program has also been established which involves parents.

In the Yukon, materials are available in the schools: however, these are utilized at the discretion of the individual school. As many of the teachers are not comfortable doing presentations on sexual abuse, a resource person

is available to the teachers.

The media can be a powerful tool in heightening public awareness, particularly in remote areas. An example is the Inuit Broadcasting Corporation which has produced programs on wife assault, alcoholism and AIDS. Programs can include phone-in shows which allow audiences to participate and to provide additional information about resources, etc. These programs are translated into local dialects and have been well received by the communities.

Messages that are ever-present, highly visible and inform people where they can find help for problems are effective. However, public awareness and education can result in a high rate of disclosures which communities may have difficulty dealing with on an immediated basis. Strategies need to be developed to help ensure that some services are in place to meet the needs.

## "TREATMENT"

The treatment of sexual abuse is constantly evolving and growing. For the most part, longitudinal studies of the effectiveness of treatment outcomes are not available. Furthermore, the experiences of aboriginal, remote and rural communities may differ significantly from each other and from larger urban areas.

This may compel communities to develop their own services and resources that reflect their unique values and needs while ensuring the protection of children. However, all communities require procedures to manage child sexual abuse cases. Case management techniques also provide safety and protection for the families and the community at large. Some communities are experiencing murders and suicides as a result of the anxiety being from awareness building effors and self-disclosures. Another area of concern is that many of the offenders are children and young adolescents who are afraid of coming forward with their problem. Many victims may not be disclosing because they are also offending. Delay in providing treatment may result in more family and community dysfunction. Government to encourage diversity creativity and experimentation so that community solutions to these issues can be found.

One of the models that some aboriginal communities are adapting to meet their needs is the Giarretto model. This model may be appealing to smaller communities because it has a high reunification rate for families. This humanistic approach encourages the criminal justice to give suspended or shortened sentences with an order of treatment for the offender. This program was one of the first to integrate community agencies, particularly, the criminal justice system. A multi-disciplinary community network provides treatment and case management. Self-help groups for parents and victims are an integral part of the model. A difficulty with this model may be a lack of resources to provide the various components of treatment in smaller communities.

Family systems models may also prove useful for the treatment of child sexual abuse in aboriginal, remote and rural communities. The Sgori model includes practical, instrumental help to families as well as therapeutic interventions. This may be more congruent with the holistic values of some communities. However, this model demands a high level of time commitment from the therapist. This may have serious implications for caseload management, and would likely require additional staff and resources.

Many aboriginal communities are integrating elders, medicine people and traditional ceremonies into the treatment of sexual abuse. Ecological and network theories often comprise part of the therapy. In these models the emphasis is on healing. Frequently, healing ceremonies acknowledge the need for communities, as well as, individuals and families to recover.

Community based treatment for child sexual abuse affirms that this is not an individual problem. Rather, the health of the community is dependent upon the health and safety of all its members. Children are a community's most important resource; they are the leaders of tomorrow. Our sensitive attention to their needs will help ensure furture communities that are healthy and strong.

## "HOLISTIC SERVICES AND FRAGMENTED FUNDING"

Aboriginal, remote and rural communities seek answers to their social problems by approaching them from a holistic point of view. However, most funding programs are problem-oriented (i.e. funding for family violence, drug abuse, etc.). This can result in a fragmentation of services. Another difficulty is that funding often decides the service priorities rather then addressing the needs of the communities.

Most of these funding programs are responses to problems and do not address the root causes at the macro-level. National Health and Welfare takes the lead role in responding to social problems when the cause is often economic. Governments need to place more emphasis on causality rather than the immediate problem.

The lack of centralized co-ordination, effective communications, and long-range planning contribute to serious myths and mystiques about rural, aboriginal and remote communities and about family violence and child abuse. It is extremely important for those in governmental funding and senior staffing positions to understand basic interpersonal/social processes within Indian and Inuit communities such as:

- the critical importance of family/community networking.
- the "moccasin telegraph".
- political families in power.
- family feuds.
- the importance of spiritual and cultural heritage.
- the nature and extent of the "under organization".
- disintegration and denial within certain family and community systems.
- the inter-relationship between colonization, alcoholism, poverty, unemployment, family violence and child abuse.

Attempting to deal with these dilemmas in isolation not only fragments services, it delays solutions to root causes.

## "PRIMARY PREVENTION TO PREVENT FAMILY VIOLENCE"

Primary prevention programs to reduce the incidence of family violence can be targeted at different groups and at different levels. For example, school programs can begin at the elementary level and continue through high-school. In some communities where the school is a focus for community activities, programs can also be directed at parents.

Public education can be facilitated by the utilization of the media. Television, radio, newspapers, flyers and community notices help to get the message of prevention across. Unfortunatley, it is often most difficult to obtain and sustain funding for primary prevention.

Local committees, self-help groups and other organizations can provide supports and role models as well preventive community education.

Recreational activities and resources can also serve a preventative function. One resource often overlooked in communities is the youth. Recruiting their assistance in community activities can serve several purposes: increase their self-esteem by allowing them to contribute; provide safe, socially acceptable outlets for their energy; reinforce their membership in and value to their communities; and provide resources to the communities.

## "LEGAL ISSUES"

In remote, rural and aboriginal communities there is a general lack of services and resources. In many remote Northern areas there is no knowledge of Bill C-15. In other areas, there is no funding to implement the changes deriving from Bill C-15, such as, video-taping victims, and changes to the court rooms to facilitate child witnesses.

Court preparation services are not available to the child witnesses in most of these communities. Financial resources are urgently required to provide lawyers and or advocates for children when necessary. There is also a need for financial resources for crown attorneys to call expert witnesses.

There is an opportunity for the federal government to provide leadership and a model, especially in the Northwest Territories where crown attorneys are federal employees.

In some of the aboriginal communities, removal of the children is the last resort. Some of these communities have very limited resources and overwhelming poverty. These children are being removed at a much later stage than in the case of non-Native children. There are also concerns with the use of voluntary agreements. In such agreements, the child is disenfranchised, a lawyer is not appointed, and the child is at risk to be re-victimized. Judges frequently do not have as much information as they need about such cases.

There is some disagreement as to whether or not offenders should be incarcerated. Judges have to consider four factors in choosing a disposition: the nature of the violation, specific deterrence, general deterrence, and protection of the community. Judges would be more willing to mandate treatment if they could be assured that there was effective treatment. Regionally based travelling teams could be an innovative way of meeting some treatment needs.

The following recommendations are presented as a means of addressing the preceeding issues pertaining to child sexual abuse in aboriginal, remote and rural communities.

"RECOMMENDATIONS"

1. That governments work with aboriginal, remote and rural communities to develop long and short-term strategies to deal with child sexual abuse.

2. That governments have a consistent interdepartmental and intergovernmental policy in supporting communities in holistic approaches to social problems.

3. That government agendas and timing be consistent with that of communities and that funding be ultilized in more flexible ways.

4. That governments be careful not to turn aboriginal people and services into non-aboriginal business.

5. That governments require institutions which serve aboriginal people to be composed of a culturally representative staff.

6. That all post-secondary institutions have affirmative action programs tied to their funding.

7. That governments assist aboriginal people to develop their own communication networks.

8. That information about government sponsored initiatives be pooled and shared by a non-governmental clearinghouse.

9. That governments consider long-term funding (10-20 years).

10. That governments develop mechanisms for a partnership among the federal, provincial, territorial governments and the private sector.

11. That the federal government play a facilitating role in identifying problems and helping communities develop proposals.

12. That the government allow aboriginal communities flexibility in determining the duration of terms of office and making training available for political leaders to be more effective.

13. That the Transfer Directorate, in their guidelines for a feasibility study, require specific mention of child sexual abuse.

14. That the government include an Employee Assistance Plan component with transfers.

15. That government make a multi-disciplinary approach a condition of funding.

16. That the federal government take responsibility for the collection of national statistics regarding child sexual abuse.

17. That the federal and provincial governments outline in their policies the importance of children. Failing to do so will result in costs down the road to these governments.

18. That family violence and specifically child sexual abuse should be included in the upcoming Family Violence Federal-Provincial Conference.

19. That National Health and Welfare explicity accept mental health issues for aboriginal people, such as child sexual abuse and family violence, as a federal responsibility. It currently does not have a mental health policy.

20. That aboriginal people be supported in acquiring appropriate training through involving federal, provincial, university , college and other training facilities such as Nechi.

21. That aboriginal people be assisted in developing their own communication networks to link communities.

22. That advocates for children be provided, eg. a child witness having to travel on her/his own to another community to go to court.

23. That investigation of possible links between alcoholism and family violence be undertaken.

24. That education initiative regarding human sexuality address homophobic issues.

25. That mature Native people train non-Natives to work in Native communities.

26. That national aboriginal organizations be contacted for further discussion regarding child sexual abuse in aboriginal communities.

27. That a seperate consultation to deal specifically with child sexual abusewith non-aboriginal remote and rural communities be undertaken.

February 13, 1989

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# Towards a National Strategy for Treatment of Child Sexual Abuse Victims, Their Families and Offenders

A paper submitted to the Special Advisor to the
Minister of Health and Welfare Canada on Child Sexual Abuse

Halifax Treatment Issues Workshop Summary

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Special acknowledgment must be given to the caring and concerned professionals who participated in the workshop and whose views are contained in the pages of this report.

Introduction

The victims of child sexual abuse and their offenders hold a mirror up to all Canadians and force us to confront the fact that in a most fundamental way we are failing as a society. There is an anti-child attitude in our society that reduces the status of children and opens up the potential for them to be physically and sexually abused and psychologically maltreated. The sexualization of childhood and the exploitation of the sexuality of women and adolescents in media, advertising, pornography and other popular culture images is a sad revelation of the extent to which we have forfeited our sense of responsibility for one another. We have given primacy to the dictates of consumerism over a sense of caring, community, and societal wellness. The power and sexual license given to males in our society further compounds the problem of sexual abuse and makes meeting in agreement on solutions a sometimes overwhelming challenge. Also, the service systems we currently employ to deal with sexual abuse are not child-focused.

However, the problem goes still deeper. As we expand the parameters of the discourse around this deeply troubling social malady to include the legal, child welfare, mental health and other systems that attempt to respond to it, we find bureaucratic practices, professional categories of relevance, and theoretical orientations, each with their own 'blindspots', that impede the provision of comprehensive, compassionate and just service interventions in the lives of both victims and offenders. But expand the discourse we must in order to put an end to the fragmentation, partialization and professional elitism that currently plagues the service delivery system and leaves care givers working in an adversarial relationship to one another, frequently at cross purposes, and in competition for scarce resources. Isolation, which so harms victims of sexual abuse and impairs the healing process, also impairs the systems that try to help. We can no longer

afford the social cost of this isolation. Victim therapists must dialogue with offender therapists, especially in light of what we are learning about the number of offenders who were previously victimized themselves. Professionals in the criminal justice system must talk to those in the child welfare and mental health fields. Men must talk with women. Our knowledge in the area of child sexual abuse and sex offender treatment is constantly evolving and growing. Much is known, but much is left to learn. The complexity and enormity of the problem and the degree to which it permeates into the social fabric of Canadian society demands we account for ourselves and work through and past our differences to find areas of agreement.

Courageous women broke the silence that first allowed us to see the reality of sexual abuse. Though most offenders are male and adult we are beginning to discover that females do sexually abuse children and adolescents. The adolescent sex offender has emerged as a most serious problem and now comprises about one quarter of the sex offender population in Canada.

The social consequences of child sexual abuse are immeasurable. Juvenile prostitution, the alarming problem of runaways, suicide, drug/alcohol abuse, impaired mental health, and lives lived in fear and torment are just a few of the outcomes. The impact of sexual abuse varies with every individual. Some are able to cope and live full, productive and successful lives. Many can't. None forget. We owe it to ourselves and every sexually abused person to believe, support and assist them, and to help them find their path to healing.

The conception and development of treatment services for victims and offenders needs to be based on the following principles:

1. Sexual abuse is a criminal act which demands accountability and

responsibility on the part of offenders;

2. Children are the future, and caring for sexually abused children and their offenders is an investment in the future;
3. Treatment begins with disclosure, and every act to assist either the victim or the offender must contain a healing message;
4. The service response to child sexual abuse victims and their offenders must be multidisciplinary and accountable to specified standards of practice.

We must also remain mindful of the fact that the sexual abuse of children occurs in a social context and that any new legal or social service initiatives designed to alleviate the problem will be limited by that context. Most important of all is the need to involve the victims themselves in the design and implementation of new initiatives so that they may be empowered to shape and control their healing process.

Reconciling Different Philosophical Approaches To Treating Victims, Their Families And Offenders In Cases Of Intrafamilial Abuse

The constantly shifting ground of knowledge concerning victim and offender treatment is a source of frustration for all concerned. Intervention approaches used by treatment providers today are often very different from the ones practiced five years ago. This is a new field of practice without sophisticated methods for evaluation of interventions - a serious problem that impairs the development of new service initiatives. We need to expand our knowledge in the area of victim and offender treatment and it will be in our best interest to encourage diversity, creativity, and experimentation as opposed to developing generic programs and philosophies.

The most serious problem we face in the area of child sexual abuse is the critical shortage of funding and human resources to provide treatment services. As a consequence of this situation service providers are often forced to make economic decisions about their interventions that are not good treatment choices.

The desperate need for treatment places forces us to make some hard choices about how and where we direct new financial resources. In the absence of unlimited funding we must thoughtfully consider the proportion of new resources we spend on research and evaluation and the provision of services. Research will help advance our knowledge in this area, but it must not be funded at the expense of badly needed new treatment services. We may need to look at evaluation in a new way and consider consumer-based models or other approaches which can supply us with immediate feedback and assist in the process of refining and making more appropriate our service interventions.

While encouraging diversity in treatment approaches it is possible to delineate some common operative guidelines. The ideal situation would of course be to devise legal and social service interventions that do not further victimize the abused child nor blind us to the fact that offenders, whose sexuality is dysfunctional, are also in need of compassionate care. However, the sexual use of children is a criminal act and holding offenders accountable for their behaviour is of paramount importance. Offenders need to be encouraged in the strongest possible terms to admit to their actions and to be made aware of the further harm they bring to the victim and to themselves by denying. They need to be told that they will not be believed in the face of evidence to the contrary and that they will disadvantage themselves through the court and treatment process if they continue to disavow responsibility.

Holding offenders accountable in situations where there is a lack of corroborating evidence, but a reasonable probability of guilt, is a special challenge. False allegations in custody and access disputes is also worrisome and damaging to the person so accused, and we must be as diligent in protecting the rights of these people as we are in protecting children. Though the number of false allegation cases is small in Canada we must be vigilant in ensuring that the legal system is not abused and that innocent people are not harmed.

The development of treatment programs should be premised on the safety, protection, and best interests of the child. This may sometimes force us to err on the side of caution when determining appropriate interventions. The life-long harm and consequences experienced by the child who is sexually abused compels us to take every precaution to ensure that s/he is believed and supported, even in the face of their offender's abject denial. Determining what is in the best interest of the child will require great sensitivity to the needs of multi-problem families, the cultural heritage of the family, the resources of the community, and the expressed wishes of the child. We will need to balance our own judgment as professionals against the unique situational demands of each child and his/her family.

We need to distinguish very carefully between 'family-focused' treatment and family therapy. Family therapy may not be an appropriate choice in some cases of intrafamilial abuse. Using a family-focused approach in intrafamilial cases involves assessing individual members, alone or in combination with one another, to obtain a sense of the power balances and integrity in the relationships between family members. As a general rule, caution should be exercised when deciding whether or not to bring the victim and her/his offender together in the same

interview. Assessing the family in this manner permits the therapist to guage the appropriateness and timeliness of family therapy. With young children we must be cautious not to engage the family in therapy before the disclosure is complete. It may be more appropriate to treat family members as individuals or in diads or triads. Removing the offender from the home is an important way to bond the child with the non-offending parent, most often the mother, in a supportive alliance and to realign power relationships within the family. Depending on the response of the non-offending parent it may sometimes be necessary to remove the child from the home in order to protect him/her.

Sadly, there are exceptional cases where removal of the offender from the home leads to economic hardship for the family, a situation which can cause some members to turn against the victim and result in ostracism of the child, more abuse, and psychological maltreatment. Situations of this kind call for the most skillful of interventions and demand that we bring all available financial and other resources to bear on protecting the child and alleviating the hardship to the family. Child sexual abuse is not just a family problem, it is a social problem and we must ensure that communities are sufficiently resourced to provide optimal care for everyone concerned.

Family-focused treatment is also important in cases of extrafamilial abuse. Parents and siblings may sometimes need counselling to deal with their own feelings of fear, grief, and/or anger, with concerns relating to the exposure the family is receiving, and with guidance and advice as to how to help and support the victim through the treatment and legal process.

In situations involving the sexual abuse of the highly vulnerable handicapped

child it is important that we change the living environment or the effects of treatment will not last. Many handicapped children do not have families and are totally dependent on the paid care-givers around them. Safeguarding these children by addressing the staff screening, training, and other problems that lead to their abuse in institutions is as vital as treatment. When we ascribe the label 'sex offender' to a developmentally delayed person we must be mindful of the fact that they may be expressing innappropriately a desire to communicate, such as touching someone's knee to engage them in listening.

Offenders constitute a widely varying population and can differ greatly in terms of the motivation for their offending behaviour, the seriousness of their illegal sexual activities, their readiness or willingness to admit, their receptivity to treatment, their understanding of victim impact, their insights into why they offended, and the degree to which they are at risk of re-offending. Some offenders may benefit more from treatment in community-based programs, as opposed to incarceration, where they can be connected with other support services currently unavailable in custody settings.

It is crucial for the criminal justice system to work closely with child welfare and mental health service agencies in order to map out the most appropriate treatment response for an offender, his/her family, and the victim. It is not possible to work out just and compassionate care for all unless each of these different systems work together.

The great care and attention given to the treatment of intrafamilial sexual abuse victims, their offenders, and families, must also be applied to the equally unfortunate problem of extrafamilial sexual abuse. Our concern with family violence

prevention must not obscure our view of the extent and seriousness of third party child sexual abuse. We need one comprehensive service system to deal with both.

Given the reality of limited funding we need to consider blending institutional and professional supports with other community resources such as self-help groups. In the case of aboriginal peoples community development should be considered as a necessary and important adjunct to treatment.

Towards A Functional Approach To Providing Treatment/Assessment Services For All Sizes Of Communities

The paucity of specialized treatment/assessment resources which leads to fragmentation in the delivery of services to child sexual abuse victims, their offenders, and families in large urban centres in Canada is even more of a concern in rural and remote areas of the country. In some small communities services exist only because of the personal committment of one professional, a situation which leaves that particular community vulnerable should this person retire, suffer burnout, or move away. Professionals such as physicians who live in very remote areas are reluctant to take on the responsibility because they have no backup services to support the enormous work involved in assessing, treating, and following up cases of child sexual abuse.

Families, offenders and victims frequently need to travel great distances and for hours at a time to get to an assessment interview and/or treatment services. In some areas families that can afford the cost use the private sector for services because public programs are underresourced, understaffed, and take a long time to access. In many communities there is a single professional with only a generalist orientation to the field of child sexual abuse who conducts the

assessment and provides treatment. A generalist simply cannot provide the quality and thoroughness of care necessary in most cases.

Treatment begins with disclosure and it is of the utmost importance to resource all communities so they can provide a continuum of care from the crisis point at the time of disclosure through to aftercare. It is in the best interest of the child for her/him to have an advocate, that is, one individual who will see her/him through every aspect of the intervention process - from the point of disclosure through to the investigation court, treatment, and follow up. Advocates could be a professional or a trained volunteer depending on the resources of the community.

Streamlining interventions so that the child is not subjected to repeated and potentially traumatizing assessment interviews or appearances in court is necessary. Providing a contiuum of care means that we must address the legal restrictions, professional barriers and mandates, and 'turf' problems that impede the free flow of information between all care-givers involved in the case. Child welfare workers and the police need to share with offender therapists all details pertaining to the abuse so that they can confront the abuser with facts and encourage him/her to move past the denial and minimization at the earliest possible point.

Overall, the child welfare system needs to be strengthened and expanded to play a stronger and more active role in the area of child sexual abuse. Current levels of funding limit the impact child welfare agencies can have in treating child sexual abuse victims and their families. Also, we need to improve our intervention

strategies in order to facilitate early disclosures and get victims, their families, and offenders into treatment sooner.

Processing cases of child sexual abuse effectively is a difficult and complex challenge. All professionals involved in handling these cases need specialized training to ensure that investigative assessments for obtaining evidence, and assessments for treatment purposes, are as thorough as possible. In small and remote communities every effort should be made to mobilize local resources such as trained volunteers or self-help groups in order to provide optimal quality care. Training and placing paraprofessionals in schools and/or probation offices can also extend and build on community resources. Different communities in close proximity to one another may be able to pool their resources and work out a cooperative model to deliver comprehensive services.

In all situations specially trained, experienced front-line workers who know and understand the human suffering involved in cases of child sexual abuse should be the final arbiters of how scarce resources are used, not administrators.

Guidelines for conducting both investigative and treatment assessments need to be improved as well as the standards for the professional preparation of those who do the assessments. Our ability to thoroughly assess both victims and offenders is impaired by the lack of reliable assessment instruments and techniques. Phallometric testing is still in its infancy and requires much more research to determine its usefulness as an assessment instrument.

Court Mandating Compulsory Treatment For Sex Offenders

Sex offenders typically do not voluntarily disclose offences nor self-refer for

counselling, a situation which forces us to seriously consider mandating them into treatment. Treatment is both humanely and economically valuable and can contribute significantly to the prevention and/or reduction of child sexual abuse. Placing an offender in treatment can reduce the time their victim spends in care and in treatment, and it is crucial for the child to know that steps are being taken to ensure his/her safety.

Governments are usually reluctant to fund offender treatment unless treatment providers can show the efficacy of their approach through outcome studies that reveal low rates of recidivism. However, it is impossible to determine at what point an offender may abuse again and researchers would literally have to follow the individual around throughout his/her lifetime to assess the impact of treatment. Some offenders will recidivate within a few weeks of treatment, others after months or years, still others never again. We need to acknowledge that reducing the number of victims of fixated and compulsive offenders or increasing the time period between offences is also a measure of treatment success. It should be noted that we spend many millions of dollars treating the common cold and certain psychiatric conditions without research that establishes conclusive results. Sexually offending behaviour is usually well patterned in adult offenders and may not be something that can be 'cured'. We need to offer offenders relapse prevention strategies and help them identify those situations that place them at high risk for re-offending. We must treat fixated pedophiles since they harm the greatest number of victims.

Research has established that adolescent sex offenders can have patterned deviant arousal patterns by the time they are 15 years of age. Intervening early in the lives of these youthful sex offenders is imperative if we are to reduce

the number of their victims.

A continuum of care that is so important in working with victims is equally necessary in the treatment of offenders. It is advantageous for all concerned to get the offender into treatment as soon as possible, and we should assign one professional to work with him/her through all aspects of the intervention process. Professionals in the criminal justice system must work closely with those in the field of mental health to ensure that the message of accountability is conveyed throughout the trial and treatment process. Defense lawyers must be made aware of the harm caused to the victim by legal manipulations that 'get their clients off' when the offender is indeed guilty.

There is a social meaning in mandating treatment. It communicates the message that the sexual abuse of children is an abhorrent and illegal act and will not be condoned in any terms. It also makes a statement about the value of children and the degree to which we care as a nation for their welfare and protection. There is also a psychological meaning in mandating treatment. It conveys to the victim that s/he is believed and supported and that they will be cared for and safeguarded against further abuse.

We must thoughtfully weigh the arguments for specific and general deterrence and punishment over rehabilitation. We know from research in the field of psychology that punishment without providing alternative behaviour options and motivation to exercise those options is ineffective. Treatment can be of benefit if the offender is in a program long enough. However, we need a way to get offenders into treatment and a way to keep them there until they demonstrate a readiness to return, unsupervised, to the community. This is especially true for the more

dangerous type of offender.

Mandating treatment in the absence of sex offence specific programs in custody and community-based settings, specially trained staff, and resources sufficient to ensure specialized quality care is not helpful. The two must go hand in hand. Sex offenders need to be treated by specialists, not generalists.

Treatment must be conceptualized as a process that starts with the report of the offence and continues through to the trial, disposition and aftercare. Gradual release to the community, continued treatment while on parole, and extended aftercare must all be part of the court order. Assessing an offender's progress in treatment is still difficult since we do not yet possess proven testing instruments. Nonetheless, it is important that the assessment process be ongoing using as many different measures as we can to compensate for their individual shortcomings. To accomplish this we need to mandate offenders into treatment.

Judges must be trained in all facets of child sexual abuse to ensure that the sentences they hand down give treatment providers enough time to make an impact. Treatment begun before the trial should not be interrupted even if the offender is placed in custody. Probation and parole officers need to be involved in the case from the outset so that they can continue the treatment process when the offender is paroled or be involved earlier on if the offender gets a probation sentence.

There are still many problems which need to be resolved before we can begin to implement mandatory treatment. We must decide who should monitor treatment and who should make the decision to end it. What are our criteria for success in

treatment and how can we measure an offender's sincerity? Are fixated pedophiles a special case requiring life-long monitoring, and if this is so is it ethical to monitor them after they have served their sentence and completed treatment? Should we, can we, mandate the administration of anti-androgen drugs to control pedophilic and/or violent offenders? Even with a mandate it is still hard to find professionals who are willing to work with sex offenders. How can we encourage the use of family courts to get offenders to comply with a supervision order with a provision for the offender to seek treatment?

Special Needs of Sexually Abused Handicapped Children And Handicapped Offenders

The sexual abuse of handicapped children is especially distressing because of their powerlessness and total dependence on others for their care. The belief that handicapped people won't know what is happening to them if they are sexually abused and so it doesn't matter makes them more vulnerable to exploitation. Living in the confines of an institution or group home sexually abused handicapped children can be subjected to the same protection of secrecy that is found in abusive family situations.

Emotional deprivation, social deprivation, lack of information about sex and sexuality and about how to say 'no' also leave the handicapped vulnerable. However, it is not the handicap itself that creates the risk. Myths about the handicapped being asexual or oversexed are incredibly strong and contribute to the hiding of the problem.

Many of the handicapped are non-verbal and cannot articulate the fact that they were abused. Also, most service providers will not work with handicapped victims. Prevention should be oriented toward parents, professionals, and factors in

institutional environments that foster abuse.

Offenders with mild mental handicaps are not over-represented in the broader sex offender population though they are beginning to show up in the statistics. These offenders may be persecuted more harshly by the criminal justice system because of our fear of their handicap. In many respects handicapped people have the same kinds of negative experiences in the criminal justice system as other minorities. Incarceration does little to help these offenders and may in fact place them at risk for abuse by other inmates.

The Adequacy of Assessment And Treatment Strategies For Young Children

Cases of sexual abuse involving young children are particularily difficult to assess and present special challenges to treatment providers and the courts. It is hard to prosecute the abusers of young children, especially in the absence of physical or corroborating evidence. Young children have difficulty articulating what happened to them in a way that is acceptable in a court of law.

We need to develop better ways of assessing children in this age group and to find other ways to help them express their abuse experiences so that they can be protected. Many of the custody and access and false allegation cases involve children in this age group.

It is important to move in quickly in cases of sexual abuse involving young children and to try and obtain a confession from the offender at the outset. The whole assessment and court process can be fear provoking for many young children. It is difficult to get families involved in assessment, and if appropriate, treatment, because the offender rarely admits to responsibility for the abuse

in these cases. Also, we need to be aware of the fact that both professionals and families/caretakers minimize the sexual abuse experiences of young children.

One new way of helping elicit confessions from these offenders is showing them video tapes made during their victim's investigative assessment interview. There is one program in Canada using this method with some success.

Evidential requirements and guidelines to use 'least intrusive measures' when dealing with children and their families make it difficult for many child welfare workers to convince the courts that a young child is at risk. This often means leaving the child in the home with the offender until more evidence can be gathered.

Some professionals feel that if a child is showing no outward signs of distress from a known or suspected abuse then it may be unnecessary to put her/him through a therapeutic or treatment process. However, symptoms may begin to appear only after the offender has left the home. Even with children as young as two years of age or less there is a risk of damage though symptoms may not appear for several years afterwards. Children do need support and to be told that others around them believe them, do not blame them, and express regret at what happened to them.

When training professionals to work with young children we should include early childhood educators since they are often the people who first notice the signs of sexual abuse. Specialized training could make them a valuable part of the treatment process. We also need to provide treatment for non-offending parents and to teach them how to best help themselves and their children through the

treatment, healing, and court process. The same kinds of services must also be developed for victims and their families in cases of extrafamilial abuse.

Adolescent Sex Offenders

Almost 25% of the sexual offences in Canada are committed by adolescents. Prison statistics gathered for the Badgley Report in 1984 revealled that one in seven of those imprisoned for sexual offences against children was under the age of 21. Knowing that sexual abuse cases are underreported these figures give us cause to be concerned about the actual extent of adolescent involvement in child sexual abuse.

Accompanying this emerging awareness is recognition of the fact that we know almost nothing about them, and that we are able to offer little in the way of age appropriate treatment or other kinds of intervention. Lacking basic descriptive and systematically gathered kinds of information on these youths, validated typologies, and a definition of the boundaries of normal adolescent exploratory sexual behaviour, service planning has been greatly impeded. We are currently in a situation where differential diagnosis is difficult and where the term 'adolescent sex offender' is applied liberally to a wide variety of young people involved in a range of illegal and/or inappropriate sexual behaviours.

The introduction of reporting protocols has brought overwhelming numbers of adolescent sex offenders to the attention of social service agencies whose limited staff training and other resources allow them to offer little in the way of treatment or assessment. Service providers across Canada are growing concerned about the possible consequences of inattention to the needs of

adolescents involved in and/or charged with illegal sexual behaviour.

The adolescent female sex offender is emerging. In some parts of the country females comprise 50% of the adolescent sex offenders on agencies' case loads. Professionals who work with the handicapped are recognizing a problem with the developmentally delayed adolescent sex offender.

Foster parents will sometimes take an adolescent male into care without having been told enough about his background. Later, this adolescent will end up molesting the foster parent's children. There are some adolescents abusing children while they themselves are being victimized. In fact the adolescent male victim is another problem that has only recently come to light.

There is definitely a need to direct resources toward this population of offender. We need more inter-agency interaction and cooperation in order to provide the same kind of comprehensive interventions necessary to work with adult offenders. We need more professional training and networking, better criteria for assessment, more community-based programs, and treatment for adolescent sex offenders in custody. We need diversion programs that get these youths into treatment quickly.

Group work is often the treatment of choice when working with these youths, but we need the resources to mobilize individual supportive counselling and, where appropriate, family therapy as adjuncts to the group work. Determinant sentencing poses a problem. In many cases an adolescent's sentence will end before treatment has been completed. We need mandated treatment for these youths and sentences sufficiently long enough to make treatment impactful.

Inadequacies In The Delivery Of Treatment Services

Coordinating services is an important way to make better use of existing resources but it must not become a substitute for the development of badly needed new ones. If we don't introduce more resources and consumer groups into existing systems we will not be able to do the work necessary to reduce and prevent child sexual abuse in this country. Coordinating committees may be a useful way to ensure that a child and her/his family is adequately resourced, but it is still imperative to have a single coordinator or case manager who can follow the child's progress throughout the intervention process.

Under present conditions it is very difficult to organize and coordinate a wide variety of professionals around a case. Until we work out the professional boundary problems and individual responsibilities and share common treatment objectives and principles we may be undermining the confidence our clients have in us to help them. We need to consider having a range of treatment/intervention options in order to develop the best possible strategy for the child, the offender, and families.

We must be cautious about the needs, wishes, and perceptions of our clients when we conceptualize strategies for treating child sexual abuse. There are many questions still to be answered. Who decides what is appropriate treatment? Can clients give informed consent without a thorough knowledge of all different treatment philosophies and approaches? Should children and/or their families be able to opt out of the treatment options prescribed by professionals? What kinds of treatment are ethically acceptable?

We need to make more and better use of self-help groups. Survivors with specialized

training and direct experiential work, and successfully rehabilitated offenders can contribute significantly to the training of professionals, to helping other survivors and offenders, and to the process of public education and awareness.

## Towards A Strategy For Action

### TRAINING

Funds need to be made available to universities and colleges to create special training programs for people who intend to work in the area of child sexual abuse or with offenders. Also, people in all professions whose work brings them into contact with sexually abused children or their offenders need to have a basic knowledge of the issues, problems, and complexities involved.

It may be possible to conceptualize training on a continuum. On one end would be introductory level kinds of training for the purposes of public education and awareness gradually moving toward greater depth and specialization on the other for professionals engaged in the field.

Basic standards and criteria for training in this area should be set by the federal government and regulated through funding access. Professional regulatory boards, such as those of M.D.'s and psychologists should be encouraged to include questions on child sexual abuse on their final licensing exams.

Training programs and/or apprenticeships must give special attention to the needs of the handicapped, minorities, and aboriginal peoples. We must build into training programs awareness of the need to work in a multidisciplinary mode.

Course content needs to focus on child development and on the communication styles and abilities of young children. We need to support the development of internships and exchange programs, particularly for workers in remote regions.

## PROGRAM DEVELOPMENT

We need to fund and develop outreach programs and to provide means of transportation for children and families to attend assessment and/or treatment. The federal government must take the initiative to develop and monitor guidelines for service delivery to ensure a basic level of care across the country. All Canadian children and their families have a right to the same quality of care and service and service providers must be accountable to specified standards of practice. We need to be aware that if governments are not interested in expanding and strengthening services in the area of child sexual abuse the vacuum will likely be filled by private sector entrepreneurs, a situation which presents enormous regulatory and quality control concerns.

We need funds to resource communities and to help them develop the best comprehensive service strategy possible. The development of program strategies to combat child sexual abuse must not be subject to the political fortune of governments but must be an ongoing committment. We need to support grassroots attempts to organize services using self-help groups and consumers in combination with professonals.

Programs should have a consumer orientation and have access to both client and professional oriented literature through a national clearinghouse. There is a need to develop learning materials for adolescents who have been victimized, and

for non-offending parents. Films and videos for treatment groups, training, and prevention are also needed.

It may be necessary to rethink our orientation to program evaluation and to make it more consumer oriented. Evaluation must not focus simply on outcomes and pathology. Self-esteem, relaxed and happy social functioning, more positive self-image are also important measures of program efficacy. We must not get bogged down with short-sighted evaluations and we need to know what we can realistically expect from evaluation. Consumers need to be involved in all aspects of program development and evaluation.

## COORDINATION

The federal government should take leadership in all facets of training, standard settings, program development, and coordination in the field of child sexual abuse. This is the only way we can ensure accountability and quality of care for all Canadian children and their families. It may be possible to develop and use a national organization for the status of children modeled along the lines of N.A.C. or C.A.C.S.W. to advocate for children and to develop the infrastructure necessary to coordinate a national strategy for treating child sexual abuse. Provincially, it may be useful to use a special secretariat to help different government departments pool their resources to address the problem.

In the absence of unlimited funds we need to give priority to the development of direct service programs and to increasing public awareness. We also need more research to advance our knowledge in this field, but it must not be used as an excuse to delay the implementation of badly needed treatment and assessment

services.

We need to consider strengthening the role of the National Clearinghouse on Family Violence and to make it more interactive with the provinces. Creating a central pool of research and professional materials and consumer information will help service providers give their clients better quality service.

We need to strengthen professional organizations and encourage them to develop standards of competence for their members who work in the field of child sexual abuse. Currently, assessment and treatment is being provided by professionals with little specialized training and experience.

There is great need for a national victim and offender treatment resource directory. Such a directory is important to the process of professional networking and information sharing.

The importance of our work to develop new treatment and assessment services for victims, their families, and offenders, to specify standards of practice, to encourage research and meaningful evaluations, to provide specialized training and internships for all professionals, and to inform the Canadian public about the seriousness of the problem of child sexual abuse cannot be understated. The far reaching social consequences of sexual abuse compel us to act now with compassion and committment.

December 08, 1988

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**Addendum to the Treatment Issues Workshop Report**

Prepared by Rix G. Rogers

In the two days available for discussion, workshop participants covered a great deal of ground, and this content is captured in the report by Fred Mathews.

The Special Advisor has continued to be reminded that many serious issues in the treatment area are far from being resolved and the Special Advisor's office is still receiving a great deal of information about these dilemmas.

As an addition to the workshop report several issues are identified, in the hopes that they will be scrutinized carefully by professionals in the field, government representatives and community leaders.

**Issues:**

- Although some professionals and organizations favour experimenting with diversion programs for treating offenders in lieu of incarceration, the large majority of people involved in the field favour criminal prosecution of offenders; sentencing, and then mandated treatment under the supervision of the court. This would require the full cooperation of the court and correctional institutions, parole and probation authorities working in close concert with treatment services. Although this pattern exists in a few places in Canada, it is not the norm, and the jurisdictional and professional barriers which exist are very considerable. In some cases court mandated treatment orders are not appropriate to the particular offender, and even if they are, they may be ignored by the correctional institution.

- There seems to be consensus that support/treatment services are needed immediately upon disclosure for the victim, other members of the family and the offender. For a variety of reasons this seldom happens in Canada. The result is additional anguish for all concerned, increased family disfunction and compounded difficulties in providing treatment services.

- A growing number of teen and adult survivors of child sexual abuse are coming forward for treatment. Currently such services are scattered and limited and this area of need is not adequately provided for.

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- Mandated treatment by the court for sexual offenders is essential and it is legitimate for the offender to be accepted into treatment under mandated terms. The first stage of the treatment is focused on dealing with denial and minimization. Therapists cannot expect voluntary commitment to treatment; it seldom works.

- Long term experience in the treatment of sexual offenders identifies treatment as an educational process which encompasses training as well as therapy. In many instances sex offenders have serious limitations in cognitive and value learning which need to be addressed.

- Professional and philosophical differences in the treatment field are pronounced. Family-therapy services may be committed to keeping the family together. Family reunification should be an option but never a requirement. Individual and group therapy are often not combined in a treatment service. Many professionals operate on the assumption that a generic model of treatment, as is used with many mental and social problems, is appropriate to victims and offenders of sexual abuse. Such an assumption seems to be inadequate.

- Professionals who stress that specialized training is required in the sexual abuse field, are still in the minority and are often viewed as eccentric by their professional colleagues.

- Professional schools have been slow to provide needed and specialized training for professionals in the child sexual abuse field. There has been a noticeable lag in awareness by the professions as a whole, to the devastating impact of child sexual abuse when the victim has become traumatized.

- Many professionals have not yet accepted the reality that sexual abuse is widespread; can be the cause of several disorders, and requires specialized training on the part of the professional to be able to provide effective treatment.

There seems to be great reluctance on the part of some professionals and mental health services to acquire the necessary expertise to deal with sexual abuse treatment needs.

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- The valuable contribution of group counselling services to teen and adult survivors by volunteers and para-professionals in sexual assault centres and by similar organizations has not been adequately accepted and recognized by professionals in the field.

- The lack of effective strategy to join the legal and treatment systems together in terms of their interrelationships, is producing a serious and chaotic disservice to victims, offenders and family members.

- The need for treatment strategies to serve rural Canada and the far North is an urgent matter requiring government attention. Distance learning techniques and satellite networks used by the medical profession would lend themselves to needs in the child sexual abuse field.

- Various parts of Canada, either on a provincial/territorial or Regional basis could benefit enormously from the establishment of a Child Abuse Prevention Institute, similar to the Institute established in Ontario. This assumes that the mandate of such a body would place priority on professional and in-service training, co-ordination of various sectors, and support for local co-ordinating committees.

- Treatment development in Canada for sexual abuse is generally in a fragile state and needs more policy and resource support from government.

- Practitioners point out that the existing child protection and welfare system do provide the basis for dealing with child sexual abuse cases, but that it is currently overloaded with cases and under resourced. The current system should be added to and strengthened.

- Closely associated with efforts to 'treat' victims, relatives and offenders is the concept of 'empowerment'. These persons need to regain a sense of control over their lives.

- Juvenile Prostitution has its own set of issues and needs, but in addition is closely related to child sexual abuse. Many juveniles involved in prostitution are previous and/or current victims of child sexual abuse.

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- An important principle to be followed is to keep the investigative and therapeutic functions of child sexual abuse cases separate and distinct.

- Cutbacks are taking place on many fronts in the social welfare and mental health services fields; and to the degree that these systems are impaired and their capacity limited, the difficulty of providing necessary specialized services for child sexual abuse becomes more difficult and more unrealistic.

# Towards A National Strategy for Preventing Child Sexual Abuse:

# Issues Arising in the Child Sexual Abuse Pre-Conference Workshop Primary Prevention and Public Awareness

The Guild Inn, Scarborough
November 1-3, 1988

A discussion paper submitted to the Special Advisor
to the Minister of Health and Welfare Canada
on Child Sexual Abuse

by

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## 0. Introduction:

This is a discussion paper that draws on ideas from the "Primary Prevention and Public Awareness Workshop" organized by Rix Rogers and held in Scarborough, November 1-3, 1988. This workshop took up issues on primary prevention (1) set out in Mr. Rogers' Discussion Paper, "An Overview of Issues and Concerns Related to the Sexual Abuse of Children in Canada". Participants discussed recommendations and strategies and in some instances went on to consider possible auspices and time frames for their implementation.

This paper presents some personal reflections that stem from the workshop. It is emphatically **not** a summary of the proceedings. The discussion was too wide-ranging to do it justice in this brief format. Thus, various issues that were quite prominent in the workshop are hardly mentioned below. A notable example is native issues; these are better treated in the context of the workshop specifically devoted to those concerns. Similarly, discussion inevitably touched on legal issues and on treatment. The points raised would tend to parallel and reinforce discussion in the workshops focused on those topics. Instead, this paper is limited to prevention and public awareness issues. And I do not pretend to represent the whole range of views expressed. Consensus was not achieved on all issues; my views are meant to foster further discussion, not present a definitive position.

## 1. Dilemmas in Primary Prevention

Child sexual abuse can have devastating effects. Among these is the tendency to undermine that fundamental sense of trust that children need in order to develop fully. But just the recognition of how widespread and deep-set child sexual abuse is in our society tends to provoke echoes of this same anxiety in the general public and even more strongly in those whose work involves responding to the problem. There is a sense that people are not what they seem, a fear that our institutions and our values are not sound, and discouragement because damage is so easy to do but often so hard to repair. Those feelings can be energizing (and lead to innovation and reform) but they also can provoke denial and disengagement. For this reason, there is increasing interest in primary prevention, in trying to alter the conditions that foster or permit child sexual abuse. This goal of eradicating child sexual abuse, i.e., eliminating the root causes, is also consistent with one of our most ingrained "economic" maxims: "an ounce of prevention...."

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However, the goal of primary prevention of child sexual abuse raises a number of real dilemmas. On the one hand, a major step forward in the field was taken by simply raising the issue, bringing it to public awareness. Child sexual abuse thrives on secrecy. Part of its trauma, so poignantly described by survivors, is the sense of being "different" from other people, cut off and suffering alone. Just the realization that others have suffered similar victimization, that many people will understand the experience, is healing. In addition, greater public awareness prompts disclosure. But these benefits are counterbalanced by what some see as dangers. More disclosures threaten to overwhelm our existing (as yet undeveloped) response system. To the extent that the response system fails under increased pressure, that means inadequate service (and sometimes further traumatization) to victims, possible injustice to alleged offenders, burnout of dedicated professionals, and most worrisome from a prevention perspective, negative publicity and system backlash that may seriously set back the long struggle against child sexual abuse. At the same time, to countenance child sexual abuse remaining undisclosed is to abandon children and permit public and official complacency, the false comfort of the sense that the problem is under control, that nothing more need be done, perhaps even that it was not really as great a problem as had been suggested. Any plan for a public awareness or public education campaign on child sexual abuse must face these conflicting concerns.

Primary prevention efforts also pose special dilemmas for specific sectors in the response system. For example, recent legal reform (Bill C-15) aims to give greater voice to child victims, especially young children who had singularly poor access to justice under established court procedures. This is consistent with two of the primary prevention aspects of our law: denunciation and general deterrence. That is, these legal reforms further underscore our determination as a society to condemn child sexual abuse and, by enabling prosecution in a wider range of circumstances, potentially deter some would-be abusers from offending. The concern, however, is that we may be placing unrealistic hope on the legal system to solve what is a multi-dimensional problem, requiring many response system resources working in consort.

Similarly, there has been massive development of prevention education programs and widespread adoption of these, especially by the schools. While this has the potential to provide children with knowledge and skills that are protective and empowering, and equally to spread complementary awareness and skills among the

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teachers and parents who seek to protect them, there are legitimate counterweighing concerns. Among these are the notion that we might be depending unduly on prevention education directed principally at the child rather than at adults in general or potential abusers in particular; i.e., that in-school prevention education does not constitute a complete prevention program and "solve" the problem. A second aspect is that educators may become overloaded as curricula try to cover more and more concerns. In short, those who plan primary prevention programs within any sector of the child sexual abuse response system have to weigh various implications.

With this general conclusion as a caveat, consider the following issues:

## 2. In-School Prevention Education Programs: Spread and Backlash

Child sexual abuse prevention education programs, especially in-school ones, have spread enormously, buoyed by teacher concern and broad parental support. For many people, they are the first thing that comes to mind when child sexual abuse prevention is mentioned. However, there is some backlash currently and considerable potential threat to in-school programs. Many questions and criticisms can be raised, some reflecting pedagogical concerns and others representing essentially ideologically-based opposition to any program viewed as "threatening adult rights" or "undermining the family". Both levels of criticism require thoughtful response.

A. We have developed a good understanding of the pedagogical issues that must be addressed in program design and evaluation. (2)

[2.1] As an immediate priority, Health and Welfare, perhaps through the National Clearinghouse, should collect, critique and summarize evaluations on child sexual abuse prevention education programs. This would build on work completed in recent Family Violence Prevention Division child sexual abuse literature reviews.

[2.2] Health and Welfare should foster evaluation research aimed at exploring as yet unresolved issues. For instance, protection curricula vary widely in length, extent of integration into the wider curriculum, and whether and with what frequency they are meant to be repeated. These are evaluable features. This research mandate arguably is shared with provincial education ministries.

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B. Pedagogical issues in child sexual abuse prevention education are particularly pressing for pre-school and day-care programs. In question is the fit between program concepts and young children's developmental capabilities. Currently, Health and Welfare is making one such program available across Canada (the "Safe and Happy Personal Safety Kit" developed by the Canadian Institute of Child Health).

[2.3] As an immediate priority, Health and Welfare should foster evaluation research of this and other programs aimed at this age range.

C. Basic ideological/philosophical arguments about in-school prevention programs are not well articulated and are very sensitive. It is not clear that any government has much stomach for such potentially divisive debate. However, the issues are likely to be pressed anyway. While prevention education seems to be eminently defensible, given what we are learning from current research, it is only prudent to marshall all arguments. (3)

For example, some people fear that child sexual abuse prevention education programs may make children too responsible for their own protection and thus may exacerbate self-blame if they are abused. This has the virtue of being an evaluable hypothesis.

[2.4] Health and Welfare should promote the idea that all prevention program research should include questions about whether children, following prevention education, are more or less likely to feel they are responsible if abuse should take place.

## 3. The Scope of Prevention Education

Physical abuse prevention education programs generally are directed at adults and seek to promote change in the (actual or potential) abuser. By contrast, child sexual abuse prevention education programs generally are directed first and foremost at children and seek to make them more aware of dangerous situations and give them skills to avoid abuse and seek help to disengage if abuse occurs.

Adult are targeted in physical abuse prevention programs: a) because abuse may start in infancy, when no avoidance by the child is possible; b) because there are some accepted criteria for predicting who is at special risk of abusing; and c) because abusive parents generally are seen as rehabilitable. In the case of child sexual abuse, abuse often starts later in childhood, there is no consensus at present about whether accurate risk prediction is possible, and considerable controversy exists about which abusers, if any, can be rehabilitated.

That said, there are some ideas about how to target child sexual abuse prevention programs at adults, and in particular, at (potential) abusers.

[3.1] For example, there is merit in broadening the availability of parenting education. Adults who grew up in abusive families may not have the skills to parent adequately nor have resolved their own difficulties sufficiently even to protect their children from being abused in turn. But much more generally, most adults now grow up without experience in child-care skills compared to times when families were larger and older children tended to be involved in the care of their younger siblings. As well, increased mobility may mean there are fewer relatives or other experienced adults to call on for assistance or advice. At the same time, adults generally have been sensitized to the notion that parenting is complex and demanding and now feel the lack of resources. (4) The mandate for general parent education is diffuse, through continuing education, public health, church groups, etc. (5) Recruitment may be problematic: one possibility is to use pre-natal classes, usually run under the auspices of hospitals, as a general referral source. Public health nurses also could serve as referral sources, as they visit a high proportion of first-time parents. Health and Welfare Canada has a natural role in program demonstration and evaluation. (6)

[3.2] Prevention programs aimed at the general adult population probably need to be much more holistic in scope than parent education alone. An ecological approach to child sexual abuse would suggest that

various factors of social isolation or social marginality place adults at greater risk of offending. To address these, programs similar to those adopted for physical abuse and neglect may be appropriate. Notably, the range of family support programs (drop-in centres, home visitors, respite child care, homemakers services, self-help support groups, literacy and adult education, etc.) become focal. (7) Recruitment issues are even more problematic for programs of this sort, although public health and primary school outreach approaches are being used with some success. In this regard especially, various European models are interesting to consider.

[3.3] In narrower terms, adult survivor groups represent a target for prevention education and support to help avoid any inter-generational recapitulation of abuse. This can be seen as a specific subgroup within the more universal family support programs described above. Again, Health and Welfare has a clear role in fostering research aimed at describing and evaluating programs with this aim.

[3.4] Sex offender programs in federal and provincial prisons are generally deemed to be inadequate; sentencing alternatives are limited. While these activities per se represent essentially tertiary prevention, they have backwash effects that concern us here. Notably, good offender programs limit further victimization and, in that sense, constitute primary prevention. Similarly, the availability of good sentencing options makes it easier for disclosure to take place and reduces justice-system-related trauma for all parties, offenders included. This constitutes secondary prevention and publicity around offender treatment programs contributes to primary prevention. The provision of adequate programs, both in prison and on an "out-patient" basis, remains a major challenge for the justice systems, both federal and provincial. Further discussion is beyond the scope of this paper and is better taken up under the justice response.

[3.5] That said, one further intervention with offenders that would have backwash prevention effects would be reform to permit long-term supervision of offenders. Aside from other supporting rationales, especially public protection, this measure notionally would add to the "general deterrence" effect.

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If prevention education efforts should be broadened to include adults (and offenders) in a more-balanced overall program, there are also expansions that would be desirable in the range of programs directed at children.

[3.6] Expansion is merited in "values for living" or "family living" curricula for children, especially aspects aimed at breaking down sex-role stereotypes and providing boys some experience in caring for infants and toddlers. Curriculum development falls mainly under the mandates of the provincial education ministries. The federal role, suitable for Health and Welfare, is again in demonstration, information exchange, and evaluation.

[3.7] "Tutoring" and "big brother/big sister"-style programs using older children and teens to help primary grade youngsters also inculcate nurturant values (but require careful supervision so as not to put children at risk).

[3.8] Another parallel tack is to teach "media literacy" to give children better skills at recognizing sexism and other biases in programming and advertising. Critical skills in decoding messages in t.v. programs, movies, rock videos, etc., are increasingly important but have not found a central place in curricula. The mandate for such curriculum development is diffuse but provincial ministries of education arguably have a key role.

## 4. A Public Awareness Campaign

If direct education is one pivot in a primary prevention strategy, the other is mass-media-based public awareness and education. Indeed, the main focus of the workshop was on the possibility of fostering a public awareness campaign. This was preliminary level discussion, without clear resolution on many points. Most of the workshop participants are very knowledgeable about child sexual abuse but have no direct experience in planning or carrying out media campaigns. Therefore, three resource persons (one representing a private non-profit, Participaction, one a crown corporation with a broad mandate, the NFB, and one representing awareness campaigns run or sponsored by Health and Welfare) had been invited to try to make good that deficiency. These three experts brought three somewhat different perspectives to the table, perhaps too much advice to be

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assimilated on the spot. In the end, given the time constraints, excessive consideration was given to how a public awareness campaign might be conducted and not enough to the more fundamental issues of whether one was desirable or timely. That said, however, the discussion did raise important points.

A. The question of what sort of organization should run an awareness campaign, if not strictly speaking logically prior, was in effect the first question raised by the presentation on Participaction. Possibilities mentioned included:

i. a private organization (e.g., as in the Mormon-sponsored ads on family and parenting on U.S. television); (8)

ii. a mandated not-for-profit organization (e.g., Participaction as a model). Another possibility along the same lines was to have an already established organization take on mass media public awareness activities as one of its functions (e.g., somewhat similar to the Canadian Council on Social Development taking over the production of the Vis-a-Vis newsletter);

iii. a government department with input from an advisory council (e.g., the current anti-drug campaign through Health & Welfare).

The major distinction between the first and second structure is whether initial funding and mandate come from private or government sectors. The main question in the third is the balance between "public" advice and "public service" input. Discussion around these possibilities surfaced the following concerns:

a) government priorities shift; and organization within or closely tied to government is vulnerable to cutbacks;

b) government is very sensitive to public opinion and prefers not to lead in controversial areas;

c) awareness may take a long period to foster, probably beyond the usual government time horizons, which generally are restricted to single electoral mandates; but on the other hand

d) fund in the private sector is increasingly competitive and consumes much of an organization's energies.

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The AIDS public education campaigns seem like useful examples of how to approach stigmatizing and sensitive issues. Canadian experience (ad campaigns run by the CPHA on contract to Health & Welfare Canada) suggest that difficult messages will be avoided or soft-pedalled. However, some European experience is quite different, with strong, forthright government-sponsored ads. This merely underlines the complexity of the organizational options; no resolution was possible in the time available.

[4.1] However, the weight of the discussion favours a model outside government but with at least initial government sponsorship. Health and Welfare is a natural lead ministry for developing such a relationship.

B. More central was the issue of what sort of message to feature in a campaign. This is intimately tied to the question of time frame; campaigns that aim to accomplish fundamental shifts in attitudes, based on public re-examination of values and institutions, necessarily require a long-term approach. Possibilities raised included:

a) a very broad awareness message, with long-term payoff-- e.g., "value children", "families, in all their variety, are key national resources", "children are our future";

b) a general awareness message, with long-term payoff -- e.g., "good parenting is an acquired skill", "parenting is a challenging task -- let's get together to share solutions"; (9) or

c) a more specific awareness message, with short- and medium-term payoff -- e.g., "child sexual abuse is happening in our community" and "these are some of the things we are doing about it". (10)

In considering potential messages, several questions were raised:

i) whether the message at this point should aim at increased awareness only or assume a basic level of awareness and include more educational and motivational information;

ii) whether a message should be positive and upbeat or serious and hortatory; and most centrally,

iii) whether a specific child sexual abuse message was contra-indicated because it would create immediate service demands and threaten to overload existing system?

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Participants at the workshop divided on these questions. The advantages of a very general message were the potential long-term fundamental shift in attitudes and no immediate resistance from governments and service providers who fear an increase in service demand. The advantages of a specific child sexual abuse message were the clear focus and the likelihood of keeping the issue a public priority, thus encouraging further service system development. There was no clear resolution on this crucial issue.

[4.2] However, the weight of the discussion provides considerable support for a public awareness campaign with a specific but "soft" child sexual abuse message built around local initiatives and celebrating local success stories. (11)

[4.3] This "message" has implications for how such a campaign would be organized. For example, it might be most desirable to have a national slogan, logo or other identifiable "frame" but regional or local input in terms of specific content and dissemination. (12)

Any more specific recommendations on campaign messages and organization must necessarily await detailed study of the issues.

C. Considerable discussion took place about what media and format to use -- t.v. programming, t.v. ads, community t.v., print, etc. The choice, or more likely the mix, depends on what audience/s are targeted, what resources are available, and how detailed the message content is. Any message must compete with myriads of commercial, non-commercial, and program messages. A child sexual abuse prevention campaign, as "counter-advertising", necessarily must pay attention to these other messages, the stereotypes it must raise and counteract. This discussion is complex and also premature. What the workshop accomplished, however, is to underscore the need to take the whole range of possibilities into account.

In addition to direct education and public awareness initiatives, various other elements are necessary for a comprehensive prevention program. Several of these were taken up, sometimes tangentially, in the workshop.

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## 5. Incidence/Prevalence Statistics

Continued public attention to child sexual abuse prevention (and more pragmatically, continued political interest) may be dependent on regular information on the current scope of the problem and whether "headway" is being made or not.

**A.** In this regard, time series data would be useful. This might involve:

[5.1] Federal government sponsored periodic self-report surveys such as the one carried out for the Badgley Committee; or

[5.2] National reporting statistics along the lines of the child abuse studies in the U.S. (13)

Depending on which approach is more viable, sponsorship would come from Health and Welfare and/or Justice Canada, in either case probably with cooperation from Statistics Canada. National reporting statistics depend on cooperative protocol development amount the provinces and the federal government.

## 6. A National Institute or National Centres of Excellence

Quite aside from the variety of research and information requirements suggested under the other headings above, the notion of a national institute or national centres arises from another primary-prevention-related perspective. That is, public awareness of child sexual abuse issues can also be fostered by the existence of focal institutions that conduct research, host national symposia, and represent the field through the media.

**A.** An issue arising is whether the idea of a single designated centre is useful or counter-productive. The U.S. example is suggestive. There are several "national centres" in the U.S., each dealing with particular aspects of child sexual abuse: e.g., the National Legal Resource Centre for Child Advocacy and Protection, the American Association for Protecting Children, the National Committee for Prevention of Child Abuse, etc. The family violence centre at the University of New Hampshire, for instance, shows that a relatively small institute

can indeed be a focus for cutting edge research and also a major force in dissemination of scholarly work from across the nation. By contrast, some examples of [other kinds of] institutes in Canada were cited as costly, self-aggrandizing failures. No consensus on this point had time to appear.

[6.1] The sense of the discussion supports both a focal institute (either "free-standing" or attached to an existing national voluntary organization) and also a strategy of building on strengths in organizations and universities in various regions across the country. Health and Welfare administer a comparable initiative in the Research Group Development Grant program; a similar program, focused on child sexual abuse (or a number of cognate topics) should be initiated.

## 7. Child Advocacy Organizations/Mechanisms

Just as a research centre would help maintain interest in and a clear focus on child sexual abuse issues, child advocacy organizations are critical in their roles of articulating issues and maintaining awareness as to the importance of children, their needs, etc. Several existing national organizations have been active in child sexual abuse issues; the question is whether these have a continuing mandate and capacity in this area and/or whether other mechanisms are demanded by the nature of the problem.

**A.** There was some discussion of the value and cogency of having young persons advocate on behalf of children (e.g., as in the Children in Care Conference, using members of the Canadian Child Welfare Association-sponsored National Youth in Care Network). Some participants noted the Canadian Council on Children and Youth-sponsored Canadian Youth Foundation as another model of this sort. There was not enough time to take this possibility much further.

[7.1] Clearly, however, providing a youth group with a public awareness mandate in this area would be a very intriguing initiative. For example, Justice Canada should consider funding such a project (perhaps on the theme of children as witnesses) as part of its review of the implications of Bill C-15.

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B. There was also discussion in the workshop on the importance of national mechanisms to provide continuing input on prevention and awareness issues. The general idea is one of "complementary opposition", i.e., that governments find it useful to have representative organizations to relate to that are organized at the same level as themselves (national for the federal government, provincial for the provincial governments, etc.). Some participants raised the example of the recent joint initiative by seven national organizations, "A Choice of Futures: Canada's Commitment to Its Children", as a model. No consensus was achieved about the form such a child advocacy mechanism should take. However, a number of the participants, myself included, are familiar with the role played by the Canadian Council on Children and Youth and see it as a natural lead organization. Whatever organization were to take this on, an adequate resource base is crucial, considering the need to sustain a primary prevention campaign over a long time frame, certainly over several parliamentary mandates.

[7.2] Health and Welfare, as the lead ministry on child sexual abuse issues, should seek to negotiate a special grant that would allow designation of one or more advocacy groups with a child sexual abuse prevention mandate. This would move beyond the sustaining grant level of support to a more arms-length "endowed" status. Partial examples of this approach are the (time-limited) government fund set up to pursue charter cases that is administered by the Canadian Council on Social Development (using special independent panels) or the role of the Institute for the Prevention of Child Abuse in administering an Ontario provincial fund for child welfare initiatives.

## 8. Other Mechanisms for Promoting Children's Rights and Improving Their Standing in Society

If long-term prevention depends on raising the status of children and creating a truly child-concerned society, further mechanisms are indicated. These were only touched on in the workshop and deserve more attention.

A. There was brief discussion of children's ombudsmen in some provinces, on rights statements included in some child welfare legislation, and of both the latter and some unique child advocacy structures built into the Quebec child protection system.

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[8.1] Initiatives of this sort, because they arise out of provincial action, are generally not well-known in the rest of the country and thus their possible utility elsewhere is not exploited. Health and Welfare should support comparative and descriptive analysis of such mechanisms and wide dissemination.

B. The notion of complementary opposition that argues for umbrella advocacy organizations that can relate authoritatively with governments on child sexual abuse issues also suggests that there be a clear locus of responsibility for the issue (and probably more broadly for children's programs) within the government. Child sexual abuse issues cut across many boundaries. Health and Welfare's lead role on child sexual abuse at the bureaucratic level implies a similar locus of responsibility at the political level, lodged with the minister. But because, at the political level, initiative must be shared with others in cabinet, it would be useful to have a minister with a broad mandate, i.e., with a general brief for children. Designating a minister responsible for children, supported by a small office or secretariat with responsibility to liaise with all departments on children's issues, would have both practical and symbolic benefits. From a public awareness perspective, it would convey a strong message about government intentions to advance the importance of children in our society. (14)

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**Footnotes**

(1) The distinctions among primary, secondary, and tertiary prevention have become conventional. In brief, primary prevention is aimed at affecting the causes of a problem so that it does not occur; this is the common sense notion of prevention. Secondary prevention is early intervention, to prevent any further recurrence. Tertiary prevention is action to deal with a full-blown or long-standing situation and is usually restorative or rehabilitative in intent.

(2) See, for example, D. Finkelhor and N. Strapko, "Sexual Abuse Prevention Education: A review of evaluation studies." In D.J. Willis et al., eds., **Child Abuse Prevention**. New York: Wiley, 1988. For a critical view, see B. Trudell and M.H. Whatley, "School Sexual Abuse Prevention: Unintended consequences and dilemmas." **Child Abuse and Neglect**, 12, 1988, pp.103-114.

(3) For a review, see A. Wachtel, "A Review of Criticisms of School-based Child Sexual Abuse Prevention Programs." Society for Children and Youth of B.C., Child Abuse Resource Centre discussion paper, January 1989.

(4) See "Survey of Canadian Parental Attitudes." **Newsbrief**, supplemental newsletter of the Institute for the Prevention of Child Abuse, edition #3, January 1989.

(5) For a rationale for a national program run by public health authorities, see K. Sundstrom-Feigenberg, "Parenthood Education -- A Report to Support the Family." Stockholm: Swedish Institute, #304, June 1983.

(6) For example, see P.C. Whitehead & L. Gliksman, **Parent Education: A review and analysis of drug abuse prevention and general programs**. Ottawa: Health Promotion Directorate, Health & Welfare Canada, 1986.

(7) For some recent discussion, see J.L. Miller & J.K. Whittaker, "Social Services and Social Support: Blended programs for families at risk of child maltreatment." **Child Welfare**, 67,2,1988, pp.161-174, and B. Weissbourd & S.L. Kagan, "Family Support Programs: Catalysts for change. "**American Journal of Orthopsychiatry**, 59,1,1989, pp.20-31.

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(8) Apparently based on "Becoming a Better Parent", a parent education program developed by Latter-day Saints Social Services.

(9) Again, see IPCA Newsbrief (footnote 4) and discussion of the Ontario parenting education campaign, "You're Not Alone", in Whitehead & Gliksman (footnote 6).

(10) For an indication of support for this option from within the child welfare sector, see J. Meston, "Child Abuse in Canada." Paper presented at the Canadian Seminar on Childhood: Implications for Child Care Policy, Gananoque, Ontario, June 29-30, 1988; p.18.

(11) For an early example of a local-story based approach, see National Centre on Child Abuse and Neglect, **How to Plan and Carry Out a Successful Public Awareness Program on Child Abuse and Neglect**. Washington, D.C.: Department of Health, Education and Welfare, 1976.

(12) For examples (mainly from the U.S.) of locally-based campaigns using nationally produced materials or "frames", see A. Wachtel, **Harmonious Combination: A discussion paper on province-wide mechanisms to coordinate child abuse activities**. Vancouver: United Way, for the Ad Hoc Committee for Coordination of Child Abuse Initiatives, June 1987.

(13) See the series of studies done by the American Association for the Protection of Children, e.g., **Highlights of Official Child Neglect and Abuse Reporting, 1984**. Denver: AAPC, 1986.

(14) But note that current government initiatives go in a different direction. That is, the Senior Steering Committee for the Family Violence Initiative brings together representatives from 14 federal departments to take a family focus. The extent to which children's interests are thereby promoted rather than subsumed within a family perspective is inevitably somewhat at issue.

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